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c 59 Companies Act

Ontario

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CHAPTER 59

The Companies Act

PART I

INTERPRETATION

1. In this Act,

Interpre-
tation.

- (a) "company" means a company having a capital divided into shares;
- (b) "corporation" includes a company whether with or without share capital;
- (c) "private company" means a company as to which by special Act, letters patent or supplementary letters patent,
 - (i) the right to transfer its shares is restricted,
 - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
 - (iii) any invitation to the public to subscribe for any shares, debentures or debenture stock of the company is prohibited;
- (d) "public company" means a company not being a private company within the meaning of clause c. R.S.O. 1937, c. 251, s. 1.

PART II

INCORPORATION, REINCORPORATION, AMALGAMATION

2.—(1) The Lieutenant-Governor may, by letters patent, grant a charter to any number of persons, not less than three, of twenty-one or more years of age, who petition therefor, constituting such persons and any others who have become subscribers to the memorandum of agreement hereinafter mentioned and persons who thereafter become shareholders

What corporations may be incorporated by letters patent.

or members in the corporation thereby created a corporation for any of the purposes to which the authority of the Legislature extends, except those of railway and incline railway and street railway companies, and corporations within the meaning of *The Loan and Trust Corporations Act*.

Rev. Stat.,
c. 214.

Incorporation of
private
company
with limited
objects.

(2) Notwithstanding anything in subsection 1, a private company may be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, and shall not by reason thereof be deemed a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders shall be limited by its letters patent or supplementary letters patent to five, and no such company shall issue bonds, debentures or debenture stock, or borrow money by the hypothecation of its securities except from the shareholders of the company or receive money on deposit. R.S.O. 1937, c. 251, s. 2; 1950, c. 8, s. 1.

Powers of
Provincial
Secretary.

3. The Provincial Secretary may, under the seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor but not those conferred on the Lieutenant-Governor in Council. R.S.O. 1937, c. 251, s. 3.

Incorporation with
share
capital.

4.—(1) The applicants for the incorporation of a company may petition the Lieutenant-Governor for the grant of a charter.

Contents
of petition.

(2) The petition (Form 1) shall show,

- (a) the proposed name of the company;
- (b) the objects for which the company is to be incorporated;
- (c) the place within Ontario where the head office of the company is to be situate;
- (d) the amount of the capital of the company, the number of shares, and the amount of each share;
- (e) *the name in full, the place of residence and the calling of each of the applicants;*
- (f) the names of the applicants, not less than three, who are to be the provisional directors of the company.

Memorandum of
agreement.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate (Form 2) signed by the petitioners.

(4) Each petitioner shall be a *bona fide* subscriber in his own right for the share or shares which by the memorandum of agreement he agrees to take.

Petitioners to be *bona fide* subscribers for shares.

(5) The petition may ask to have embodied in the letters patent any provision which under this Act might be embodied in a by-law of the company. R.S.O. 1937, c. 251, s. 4.

Prayer for insertion of special clauses.

5.—(1) The letters patent or any supplementary letters patent of any company may provide for the issue of any or all of the shares of the capital stock of such company without any nominal or par value.

Issue of shares without nominal or par value.

(2) Each share of the capital stock without nominal or par value shall be equal to every other such share of the capital stock subject to the preferences, restrictions or other conditions attached to any class of shares.

Equality of no par value shares.

(3) Every certificate of shares without nominal or par value shall have plainly written or printed upon its face the number of such shares which it represents and the number of such shares which the company is authorized to issue, and no such certificate shall express any nominal or par value of such shares.

Particulars on certificate.

(4) In the absence of other provisions in that behalf in the letters patent, supplementary letters patent or by-laws of the company, the issue and allotment of shares without nominal or par value authorized by this section may be made from time to time for such consideration as may be fixed by the board of directors of the company, and in fixing the amount of such consideration, except in respect of shares without nominal or par value having a preference as to principal, the board may provide that a part thereof may be set aside as a distributable surplus.

Price to be fixed by directors.

(5) Any and all shares issued as permitted by this section shall be deemed fully paid and non-assessable on receipt by the company of the consideration for the issue and allotment thereof, and the holder of such shares shall not be liable to the company or to its creditors in respect thereof.

Holder not liable to creditors, etc.

(6) The amount of capital with which the company shall carry on business shall be not less than the aggregate amount of the par value of outstanding fully paid par value shares, if any, or of any less amount paid up on par value shares, together with the amount of the consideration received upon the issue and allotment of the shares without nominal or par value from time to time outstanding exclusive of such part of

Minimum capital.

such consideration as may be set aside as distributable surplus in accordance with subsections 4 and 8.

Saving.

(7) Nothing in subsection 6 shall be deemed to affect the capital of companies incorporated under the provisions of Part II in respect of shares without nominal or par value issued before the 2nd day of April, 1931, where the letters patent of such companies with supplementary letters patent, if any, granted to such companies before or after the 2nd day of April, 1931, provide that the capital shall be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars in respect to every issued share without par value, plus such amounts as from time to time by by-law of the company may be transferred thereto.

Shares
issued
without
declaration.

(8) In the case of shares without nominal or par value issued without there having been made, on or before the issue and allotment thereof in accordance with this Act, a declaration that any specified proportion of the consideration to be received therefor shall be capital, the directors may at any time pass a by-law for either or both of the following purposes:

1. Declaring that a specified portion of the consideration received for any such shares shall be capital.
2. Approving the consideration received for and confirming the issue of any such shares which were issued for a consideration not fixed in accordance with this Act, and upon such by-law being sanctioned by at least two-thirds of the votes cast at a special general meeting of the shareholders of the company duly called for considering the by-law the Provincial Secretary, upon being satisfied of the expediency and *bona fide* character thereof, may grant supplementary letters patent confirming the by-law. R.S.O. 1937, c. 251, s. 5.

Incorporation
without
share capital.

6.—(1) The applicants for the incorporation of a corporation not having share capital may petition the Lieutenant-Governor for the grant of a charter.

Contents of
petition.

(2) The petition (Form 3) shall show,

- (a) the proposed name of the corporation;
- (b) the objects for which the corporation is to be incorporated;
- (c) the place within Ontario where the head office of the corporation is to be situate;

(d) the name in full, the place of residence and the calling of each of the applicants;

(e) the names of the first directors of the corporation.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate (Form 4) signed by the petitioners setting out such regulations as may be deemed expedient for, Memorandum of agreement.

(a) the election of members, trustees, directors and officers;

(b) the holding of meetings of members, trustees and directors;

(c) the establishment of branches;

(d) the payment of directors, trustees, officers and employees; and

(e) the control and management of the affairs of the corporation.

(4) The memorandum shall be expressed in separate paragraphs numbered consecutively, and the petitioners may adopt all or any of the provisions of Form 4 or may substitute others therefor. R.S.O. 1937, c. 251, s. 6. Form of.

7. In so far as the letters patent and supplementary letters patent do not exclude or modify the regulations in Form 4, those regulations shall, so far as practicable, be the regulations of a corporation not having share capital in the same manner and to the same extent as if they were contained in the letters patent or supplementary letters patent. R.S.O. 1937, c. 251, s. 7. Effect of regulations in memorandum.

8. The Lieutenant-Governor on an application for letters patent or supplementary letters patent may give to the corporation a name different from its proposed or existing name, as the case may be, and may vary the objects or other provisions or terms stated in the petition or memorandum of agreement. R.S.O. 1937, c. 251, s. 8. Change of name or terms of application.

9. A corporation without share capital heretofore or hereafter incorporated, with the consent in writing of all its members, may by by-law provide for the creation of a capital divided into shares and for the allotment and payment of such shares and may fix and prescribe the rights and privileges of Creation of capital of corporation not already having share capital.

the shareholders; but no such by-law shall take effect until confirmed by letters patent or by supplementary letters patent. R.S.O. 1937, c. 251, s. 9.

By-law for supplementary letters to operate on co-operative basis.

10.—(1) The directors of a corporation heretofore or hereafter incorporated under Part II may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent providing for the corporation to be operated on a co-operative basis as defined by Part XII and making the corporation subject to Part XII.

Confirmation of by-law by shareholders.

(2) The application shall not be made until the by-law has been confirmed by all the shareholders or members in writing or by a resolution unanimously passed at a meeting of the shareholders or members duly called for considering the by-law and at which all the shareholders or members are present or represented by proxy. R.S.O. 1937, c. 251, s. 10.

Amalgamation of corporations.

11.—(1) Any two or more corporations to which this Act applies having the same or similar objects within the scope of this Act, may, in the manner herein provided, amalgamate and may enter into all contracts and agreements necessary to such amalgamation.

Joint agreement between directors proposing to amalgamate, etc.

(2) The corporations proposing to amalgamate may enter into a joint agreement for the amalgamation prescribing the terms and conditions thereof, the mode of carrying the same into effect, and stating the name of the new corporation, the names, callings, and places of residence of the first directors thereof and how and when the subsequent directors are to be elected, with such details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the new corporation, and in cases of companies the number of shares of the capital, the par value of each share, and the manner of converting the share capital of each of the companies into that of the new company.

Submission to shareholders or members of each corporation.

(3) The agreement shall be submitted to the shareholders or members of each of the corporations at a general meeting thereof called for the purpose of taking the agreement into consideration.

Consideration of agreement and certificate of adoption.

(4) At such meetings of the shareholders or members the agreement shall be considered, and if two-thirds of the votes of all the shareholders or members of each corporation are for the adoption of the agreement that fact shall be certified upon the agreement by the secretary of each corporation under the corporate seal thereof.

(5) Thereupon the several corporations by their joint petition may apply to the Lieutenant-Governor for letters patent confirming the agreement, and on and from the date of the letters patent the corporations shall be deemed and taken to be amalgamated and to form one corporation by the name in the letters patent provided, and the corporation so incorporated shall possess all the property, rights, privileges and franchises and be subject to all the liabilities, contracts, disabilities and duties of each corporation so amalgamated. R.S.O. 1937, c. 251, s. 11.

Petition for confirmation by letters patent.

12. A corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for letters patent under this Act, and the Lieutenant-Governor may grant letters patent incorporating the shareholders or members of the corporation as a corporation under this Act. R.S.O. 1937, c. 251, s. 12.

Reincorporation of corporation.

13. Where an existing corporation applies for the issue of letters patent under section 12, the Lieutenant-Governor may, by letters patent, limit the powers of the corporation or extend them to such other objects, within the scope of this Act, as the applicant desires, name the first directors of the new corporation and give to it the name of the old corporation or any other name. R.S.O. 1937, c. 251, s. 13.

Extension of powers on reincorporation.

14. All rights of creditors against the property, rights and assets of a corporation amalgamated or reincorporated under this Act, and all liens upon its property, rights and assets shall be unimpaired by such amalgamation, or reincorporation, and all debts, contracts, liabilities and duties of such corporation shall thenceforth attach to the new or reincorporated corporation and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. R.S.O. 1937, c. 251, s. 14.

Rights of creditors preserved.

15.—(1) Where a corporation has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing the assets of the corporation or any part of them among the shareholders and in any case where the corporation has issued both preference and common shares, such by-laws may provide for distributing any part of the assets, in specie or otherwise, rateably among the holders of preference shares, and the remainder of the assets rateably among the holders of common shares.

Distribution of assets on ceasing to carry on business.

Conditions.

(2) The by-law shall not take effect unless or until it is confirmed by a two-thirds vote of the shareholders present in person or by proxy at a general meeting duly called for considering the by-law and by the Lieutenant-Governor in Council.

Confirmation of by-law for distribution.

(3) When so confirmed any such by-law shall be valid and binding upon all shareholders of the corporation. R.S.O. 1937, c. 251, s. 16.

Supplementary letters patent for certain purposes.

16.—(1) The directors of a corporation may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent providing for,

- (a) increasing or decreasing the capital;
- (b) redividing the capital of the corporation into shares of smaller or larger amount;
- (c) limiting the powers of the corporation or extending them to such objects within the scope of this Act as the corporation may desire;
- (d) limiting or increasing the amount which the corporation may borrow upon debentures or otherwise where such amount is specified in the letters patent or supplementary letters patent of the corporation;
- (e) varying any provision contained in the special Act or letters patent or supplementary letters patent;
- (f) any other matter or thing in respect of which provision might have been made had the corporation been incorporated under this Act;
- (g) changing all or any of its previously authorized shares with par value, issued or unissued, into the same or a different number of shares of any class or classes without par value;
- (h) changing all or any of its previously authorized shares *without par value, issued or unissued*, into the same or a different number of shares of any class or classes with par value;
- (i) classifying or re-classifying any shares, either with or without par value;
- (j) consolidating or subdividing any shares either with or without par value; R.S.O. 1937, c. 251, s. 17 (1).

(k) converting a private company into a public company;

(l) converting a public company into a private company.
1948, c. 13, s. 2 (1).

(2) The application shall not be made until the by-law has been confirmed, in the case of a company, by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering the by-law, and holding not less than two-thirds of the issued capital stock represented at such meeting or, in the case of a corporation not having share capital, by a vote of two-thirds of the members so present or represented as the case may be, and in the case of the conversion of a public company into a private company the application shall not be made until the by-law has been confirmed by the consent in writing of all the shareholders. R.S.O. 1937, c. 251, s. 17 (2); 1948, c. 13, s. 2 (2). Confirming by-law.

(3) On a reduction of the capital of a company the liability of shareholders to persons who at the time of such reduction are creditors shall remain as though the reduction had not been made. R.S.O. 1937, c. 251, s. 17 (3). Rights of creditors preserved.

17. Before letters patent or supplementary letters patent are issued the applicants shall establish to the satisfaction of the Provincial Secretary the sufficiency of the petition, memorandum of agreement, by-laws, resolution and all documents filed on such application, and shall furnish such evidence of the *bona fides* of the application as he may deem necessary. R.S.O. 1937, c. 251, s. 18. Sufficiency of material to be established.

18. The Provincial Secretary, or any officer to whom the application may be referred, may take evidence under oath. R.S.O. 1937, c. 251, s. 19. Proof of matters under this Act.

19. The letters patent or supplementary letters patent may impose any conditions with respect to the by-laws of a corporation or any amendments thereof, and in such event the corporation shall not carry on its undertaking, or any part thereof, nor shall the by-laws be of any force or validity until the conditions so imposed are complied with. R.S.O. 1937, c. 251, s. 20. Conditions may be imposed in letters patent.

20. The letters patent or supplementary letters patent may authorize the Provincial Secretary whenever he sees fit to appoint an auditor to examine the books of the corporation or an inspector to inspect its undertaking and affairs, or to call a general meeting of its shareholders or members, upon such terms as may be therein set out. R.S.O. 1937, c. 251, s. 21. Providing for appointment of auditor.

Notice of
issuing
letters
patent.

21. Notice of the granting of letters patent or supplementary letters patent shall be given forthwith by the Provincial Secretary in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 22.

Commence-
ment of
existence.

22. A corporation shall be deemed to be existing from the date of the letters patent incorporating it. R.S.O. 1937, c. 251, s. 23.

Powers
incidental to
company.

23.—(1) A company shall possess as incidental and ancillary to the powers set out in the letters patent or supplementary letters patent power,

- (a) to carry on any other business, whether manufacturing or otherwise, capable of being conveniently carried on in connection with its business or calculated directly or indirectly to enhance the value of or render profitable any of the company's property or rights;
- (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purposes of the company;
- (c) to apply for, purchase or otherwise acquire any patents, licences, concessions and the like, conferring any exclusive or non-exclusive, or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit the company, and to use, exercise, develop or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired;
- (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or other-

wise acquire shares and securities of any such company, and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;

- (e) to take, or otherwise acquire and hold, shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as directly or indirectly to benefit the company;
- (f) to enter into any arrangements with any authorities, municipal, local or otherwise, that may seem conducive to the company's objects, or any of them, and obtain from any such authority any rights, privileges and concessions which the company may think is desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions; R.S.O. 1937, c. 251, s. 24 (1), cls. (a-f).
- (g) to establish and support or aid in the establishment and support of associates, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company, or its predecessors in business, or the dependants or connections of such persons, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object; R.S.O. 1937, c. 251, s. 24 (1), cl. (g); 1939, c. 47, s. 3 (1).
- (h) to promote any company or companies for the purpose of acquiring or taking over all or any of the property and liabilities of the company, or for any other purpose which may seem directly or indirectly calculated to benefit the company;
- (i) to purchase, take on lease or in exchange, hire or otherwise acquire any personal property and any rights or privileges which the company may think necessary or convenient for the purposes of its business and in particular any machinery, plant and stock in trade;
- (j) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, watercourses,

wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences which may seem calculated directly or indirectly to advance the company's interests, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;

- (k) to lend money to customers and others having dealings with the company or with whom the company proposes to have dealings and guarantee the performance of contracts by any such person;
- (l) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments;
- (m) to sell or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by the vote of the shareholders present or represented by proxy at a general meeting duly called for considering the matter, and holding not less than two-thirds of the issued capital stock represented at such meeting;
- (n) to adopt such means of making known the products of the company as may seem expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations;
- (o) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the company;
- (p) to do all or any of the above things, and all things authorized by the letters patent or supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (q) to do all such other things as are incidental or conducive to the attainment of the above objects and

of the objects set out in the letters patent and supplementary letters patent;

- (r) to procure the company to be registered and recognized in any foreign country or province of Canada, and to designate persons therein according to the laws of such foreign country or province of Canada to represent the company and to accept service for and on behalf of the company of any process or suit;
- (s) to issue and allot fully paid shares of the capital stock of the company in payment or part payment of any real or personal property purchased or otherwise acquired by the company;
- (t) to distribute among the shareholders of the company in kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property or assets of the company or any proceeds of the sale or disposal of any property of the company and in particular any shares, bonds, debentures, debenture stock or other securities of or in any other company belonging to the company, or of which it may have power to dispose; provided, however, that no such distribution shall effect a reduction of the capital of the company, unless made in accordance with this Act;
- (u) to pay out of its funds all costs and expenses of or incidental to the incorporation and organization of the company; R.S.O. 1937, c. 251, s. 24 (1), cls. (h-u).
- (v) to invest and deal with the moneys of the company not immediately required in such manner as may from time to time be determined. 1947 c. 15, s. 1.

(2) All or any of the powers set out in subsection 1 may be withheld by the letters patent or supplementary letters patent. R.S.O. 1937, c. 251, s. 24 (2). Powers may be withheld.

24.—(1) A corporation incorporated under this Act shall have power, Incidental powers.

- (a) to construct, maintain and alter any buildings or works necessary or convenient for the purposes of the corporation;
- (b) to acquire by purchase, lease or other title, and to hold any real estate necessary for the carrying on of

its undertaking, and when no longer required to sell, alienate and convey the same.

Incorporation subject to trusts.

(2) The corporation shall, upon its incorporation, be invested with all the property and rights, real and personal theretofore held by or for it under any trust created with a view to its incorporation. R.S.O. 1937, c. 251, s. 25.

Restrictions as to holding real estate.

25.—(1) Unless other special statutory enactments apply, any land or interest therein at any time acquired by the corporation and not required for its actual use and occupation or for the purposes of its business, or not held by way of security, shall not be held by the corporation, or by any trustee on its behalf, for a longer period than seven years after the acquisition thereof, or after it has ceased to be required for its actual use and occupation or for the purposes of its business, but shall be absolutely sold and disposed of, so that the corporation shall no longer retain any interest therein unless by way of security.

Forfeiture of real estate.

(2) Any such land or interest therein not within the exceptions hereinbefore mentioned, held by the corporation for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the use of Ontario.

Extension of time for holding.

(3) The Lieutenant-Governor in Council may extend such period from time to time, not exceeding in the whole twelve years, and no such forfeiture shall take effect or be enforced until the expiration of at least six months after notice in writing to the corporation of the intention of His Majesty to claim the same, and during such six months the corporation may dispose of the land or its interest therein.

Statement to be furnished to Provincial Secretary.

(4) The corporation shall give to the Provincial Secretary when required a full and correct statement of all lands or interests therein at the date of such statement held by or in trust for the corporation. R.S.O. 1937, c. 251, s. 26.

Defects of form not to invalidate letters patent, etc.

26. The provisions of this Act relating to matters preliminary to the issue of the letters patent or supplementary letters patent shall be deemed to be directory only, and no letters patent or supplementary letters patent, notice, order or other proceeding by or on behalf of the Lieutenant-Governor, Provincial Secretary or other Government or departmental officer under this Act shall be void or voidable on account of any irregularity, or otherwise, in respect of any matter preliminary to the issue of the letters patent or supplementary letters patent, notice, order or other proceeding or of any alterations in any petition or documents submitted

in order to comply with this Act or with the departmental practice thereunder. R.S.O. 1937, c. 251, s. 27.

27.—(1) If a corporation incorporated by letters patent does not go into actual *bona fide* operation within two years after incorporation, or for two consecutive years does not use its corporate powers, such powers, except so far as is necessary for the winding up of the corporation, shall be *ipso facto* forfeited. Forfeiture of charter for non-user.

(2) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation. Proof of user.

(3) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of creditors not affected.

(4) The Lieutenant-Governor in Council may upon application revive any charter so forfeited, upon compliance with such conditions and upon payment of such fees as the Lieutenant-Governor in Council may designate. R.S.O. 1937, c. 251, s. 28. Charter may be revived.

28. Where a municipal corporation has passed or may hereafter pass a by-law to license, regulate and govern persons or proprietary clubs as provided by paragraph 1 of section 413 of *The Municipal Act*, no charter heretofore or hereafter granted whether by special Act or letters patent or otherwise for any of the purposes mentioned in that paragraph shall be construed as exempting the holders thereof from compliance with the provisions of such by-law or as affecting the discretionary power to refuse or grant a licence conferred by subsection 4 of section 263 of *The Municipal Act*. R.S.O. 1937, c. 251, s. 29. Clubs not to be exempted from municipal by-laws as to billiard tables, etc. Rev. Stat., c. 243.

29.—(1) The letters patent by which a corporation is incorporated and any supplementary letters patent amending or varying the same may, at any time, be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council, on sufficient cause being shown, upon such conditions and subject to such provisions as he may deem proper. R.S.O. 1937, c. 251, s. 30 (1). Revocation of charter.

(2) The letters patent may be cancelled by order of the Lieutenant-Governor in Council if it appears that the corporation is in default for a period of one year in filing the annual returns, and that notice of such default has been sent by registered mail to each director of record in the Department of the Provincial Secretary to the latest address stated therein, and that such notice has been inserted once in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 30 (2); 1948, c. 13, s. 3. Cancellation of charter on default in filing of returns.

Company with less than three members exercising corporate powers, shareholders personally liable.

30.—(1) If a corporation exercises its corporate powers when the number of its shareholders or members is less than three, for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers, shall be severally liable for the payment of the whole of the debts of the corporation contracted during such time, and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Shareholder by protest may relieve himself from liability.

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation of charter if number of shareholders not brought up to three.

(3) If after notice from the Provincial Secretary the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may, upon the report of the Provincial Secretary, be regarded by the Lieutenant-Governor in Council as sufficient cause for the revocation of the charter of the corporation. R.S.O. 1937, c. 251, s. 31.

Surrender of charter.

31.—(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant-Governor,

(a) that it has parted with its property and has divided its assets rateably among its shareholders or members, provided that where any of the shareholders or members are unknown or cannot be located, their distributive share may be disposed of in trust for such shareholders or members;

(b) that,

(i) it has no debts or obligations, or

(ii) its debts or obligations have been duly provided for or protected, or

(iii) its creditors or other persons having interests in its debts or obligations consent; and

- (c) that the corporation has given notice of application for leave to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where the corporation has its head office. 1947, c. 15, s. 2.

(2) The Lieutenant-Governor, upon a due compliance with the provisions of this section, may accept a surrender of the charter and direct its cancellation, and fix a date upon and from which the corporation shall be dissolved, and the corporation shall thereby and thereupon become dissolved accordingly. R.S.O. 1937, c. 251, s. 32 (2).

Acceptance of surrender and dissolution of corporation.

32. The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant-Governor upon petition therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. R.S.O. 1937, c. 251, s. 33.

Termination of existence of corporation not incorporated by letters patent.

33.—(1) Notwithstanding the dissolution of a company under section 31 or 32, the shareholders or members among whom its assets have been divided shall, to the amount received by them respectively upon such division, remain liable to the creditors of the company, and an action may be brought in any court of competent jurisdiction to enforce such liability, but the action shall be commenced within and not after one year from the date of dissolution of the company.

Liability of shareholders to creditors after surrender of charter.

(2) When there are numerous shareholders or members the court may permit an action to be brought against one or more as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the master's office all such shareholders or members as may be found and the master shall determine the amount which each should contribute towards the plaintiff's claim and may direct payment of the sums so to be ascertained. R.S.O. 1937, c. 251, s. 34.

Action against one shareholder as representing class.

34. Any real or personal property of a company, which has not been disposed of at the date of dissolution, shall be forfeited to the Crown. 1947, c. 15, s. 3.

Forfeiture of undisposed of property.

35. The Lieutenant-Governor in Council may make regulations with respect to,

Regulations by Lieutenant-Governor in Council.

- (a) the cases in which notice of application for letters patent or supplementary letters patent must be given;

- (b) the forms of letters patent, supplementary letters patent, notices and other instruments and documents relating to applications and other proceedings;
- (c) the form and manner of the giving of any notice required by this Act;
- (d) any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 251, s. 35; 1946, c. 10, s. 1.

PART III

NAME OF CORPORATION

Use of word
"Limited".

36.—(1) The corporate name of every company with share capital shall have the word "Limited" as the last word thereof.

Idem.

(2) Where the company or any director, manager, officer or employee thereof uses the name of the company, the word "Limited" shall appear as the last word thereof.

Saving.

(3) Stamping, writing, printing, or otherwise marking on goods, wares and merchandise of the company, or upon packages containing the same shall not be deemed to be a use of the name within this section.

Abbrevia-
tion.

(4) Where the word "Company", "Club", "Association", or other equivalent word forms part of the name, the word "Limited" may be abbreviated to "Ltd." or "Ld."

Penalty for
using word
"Limited"
without
authority.

(5) If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, that person or those persons, unless duly incorporated with limited liability, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every day upon which that name or title has been used.

Not
applicable
to insurers.

(6) This section shall not apply to insurers incorporated under Part XVI. R.S.O. 1937, c. 251, s. 36.

"Private
company"
to be on seal
and on share
certificates.

37. Every private company shall have on its seal the words "private company" and upon every share certificate issued by the company there shall be distinctly written or printed the same words. R.S.O. 1937, c. 251, s. 37.

Penalty.

38. Every company and every director, manager, officer or other employee making default in complying with the provi-

sions of sections 36 and 37 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for a first offence and not more than \$100 for every subsequent similar offence. R.S.O. 1937, c. 251, ss. 38, 129.

39. The corporate name shall be one which is not objectionable upon any public ground and is not that of any known corporation or association incorporated or unincorporated, or of any partnership or of any individual, or any name under which any known business is being carried on, or so nearly resembling the same as to be calculated to deceive; but a subsisting corporation, association, partnership, individual or person may consent that its or his name, in whole or in part, be granted to a new corporation incorporated for the purpose of acquiring or promoting the objects of such business. R.S.O. 1937, c. 251, s. 39.

Name to be free from objection.

40.—(1) The name of a corporation which has not, for three consecutive years, made the annual summary prescribed by *The Companies Information Act* may be given in whole or in part to a new corporation, unless the defaulting corporation, on notice by the Provincial Secretary by registered letter addressed to the corporation or its president at the address shown by its last return, proves to the satisfaction of the Lieutenant-Governor that it is still a subsisting corporation.

When name of one corporation may be given to another. Rev. Stat., c. 60.

(2) If, at the end of one month from the date of such notice, the Provincial Secretary has not been satisfied by the corporation or its president that the corporation is a subsisting corporation it shall be no longer entitled to the use of the corporate name.

Idem.

(3) Where no annual summary has been filed by a corporation for three years immediately following its incorporation its name may be given to another corporation without notice and the first-mentioned corporation shall be deemed not to be subsisting. R.S.O. 1937, c. 251, s. 40.

Idem.

41. Where it is made to appear to the satisfaction of the Lieutenant-Governor in Council that any corporation is incorporated under a name the same as or so similar to that of an existing corporation, company, partnership, association, individual or business as to be calculated to deceive, the Lieutenant-Governor in Council may change the name of the corporation. R.S.O. 1937, c. 251, s. 41.

Change of name if objectionable.

42.—(1) Where a corporation desires to change its name, the Lieutenant-Governor, upon being satisfied that the corporation is solvent and that the change desired is not for

Or upon application.

any improper purpose and is not otherwise objectionable, may change the name of the corporation.

In case proposed name is objectionable.

(2) Where the proposed name is considered objectionable the Lieutenant-Governor may change the name of the corporation to some unobjectionable name. R.S.O. 1937, c. 251, s. 42.

Notice of change.

43. Notice of the change of the name of a corporation shall be given by the Provincial Secretary by publication in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 43.

Change not to affect rights or obligations.

44. A change of the name of a corporation shall not affect its rights or obligations. R.S.O. 1937, c. 251, s. 44.

PART IV

MEETINGS OF COMPANY

Notice of meeting.

45. In default of other express provision in the special Act, the letters patent, or supplementary letters patent or by-laws of a company, notice of the time and place for holding general meetings of every company unless all the shareholders waive in writing such notice shall be given at least 10 days previously thereto by registered letter to each shareholder at his last known address, and by an advertisement in a newspaper published at or as near as may be to the place where the company has its head office and to the chief place of business of the company if these differ. R.S.O. 1937, c. 251, s. 45.

Annual meeting.

46.—(1) The annual meeting of the shareholders of the company shall be held at such time and place in each year as the special Act, letters patent, supplementary letters patent or by-laws of the company may provide, and in default of any such provision on the fourth Wednesday in January in every year. R.S.O. 1937, c. 251, s. 46 (1).

Report to be sent shareholders containing.

(2) The directors shall, at least seven days before the day on which the meeting is held, send by post to every shareholder a report containing,

balance sheet;

(a) a balance sheet made up to a date not more than four months before such annual meeting; provided however that a company which carries on its undertaking outside of Canada may by its by-laws extend this period to not more than six months;

abstract of income and expenditure;

(b) an abstract of income and expenditure for the financial period ending upon the date of such balance sheet;

- (c) the report of the auditor or auditors; auditor's
report;
- (d) such further information respecting the company's financial position as the special Act, letters patent, supplementary letters patent or by-laws of the company may require, further
necessary
information.

and the directors shall lay such report before the meeting.
R.S.O. 1937, c. 251, s. 46 (2); 1943, c. 28, s. 7.

(3) Every balance sheet shall be drawn up so as to distinguish at least the following classes of assets and liabilities: Balance
sheet to
show assets
and
liabilities.

1. Cash.
2. Debts owing to the company from its customers.
3. Debts owing to the company from its directors, officers and shareholders.
4. Stock in trade.
5. Expenditures made on account of future business.
6. Land, buildings and plant.
7. Goodwill, franchises, patents and copyrights, trademarks, leases, contracts and licences.
8. Debts owing by the company secured by mortgage or other lien upon the property of the company.
9. Debts owing by the company but not secured.
10. Amount received on common shares.
11. Amount received on preferred shares.
12. Indirect and contingent liabilities.

(4) If the by-laws of the company so provide it shall not be necessary to send the report mentioned in subsection 2 to the shareholders. When
report need
not be sent.

(5) A copy of such report shall be furnished forthwith to any shareholder on written application. R.S.O. 1937, c. 251, s. 46 (3-5). Report
furnished on
application.

(6) Every company which neglects or refuses to furnish such report for which application has been made as aforesaid Penalty.

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 251, ss. 46 (6), 129.

Special
general
meeting by
directors on
requisition
therefor.

47.—(1) Upon the receipt of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director shall forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition.

By share-
holders.

(2) If the meeting is not called and held within 21 days from the date upon which the requisition was left at the head office of the company any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting.

By
directors.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business.

Notice.

(4) Notice of any special general meeting shall state the business which is to be transacted at it. R.S.O. 1937, c. 251, s. 47.

Presiding
officer.

48. The president shall preside as chairman at every general meeting of the company, and if there is no president or vice-president, or if at any meeting neither of them is present within 15 minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman. R.S.O. 1937, c. 251, s. 48.

Adjourn-
ment by
consent.

49. The chairman may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn any meeting from time to time and from place to place. R.S.O. 1937, c. 251, s. 49.

Procedure
as to
resolution.

50.—(1) At any general meeting, unless a poll has been demanded, an entry in the minutes of the company to the effect that the chairman declared a resolution to be carried shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Taking vote
when poll is
demanded.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and if the by-laws make no provision therefor then as the chairman may direct.

(3) In the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote. ^{Casting vote.} R.S.O. 1937, c. 251, s. 50.

51. Subject to the special Act, letters patent, supplementary letters patent or by-laws, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy, but no shareholder in arrear in respect of any call shall be entitled to vote at any meeting. ^{Votes.} R.S.O. 1937, c. 251, s. 51.

52.—(1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof. ^{Proxy.}

(2) No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy or has been appointed to act at that meeting as proxy for a corporation. ^{Qualification of proxy.}

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands. ^{Not to vote on show of hands.} R.S.O. 1937, c. 251, s. 52 (1-3).

(4) An instrument appointing a proxy may be according to Form 5 or such other form as may be prescribed by the by-laws of the company and shall not contain anything but the appointment of the proxy or a revocation of a former instrument appointing a proxy or restrictions, limitations or instructions as to the manner in which the shares covered by the instrument are to be voted or which may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a recognized stock exchange. ^{Form of instrument appointing proxy.} 1943, c. 28, s. 8.

(5) An instrument appointing a proxy may be revoked at any time. ^{Revocation of proxy.}

(6) The directors may by by-law prescribe the period of time immediately preceding any special or general meeting of the shareholders within which the instrument appointing the proxy shall be deposited with the company; provided that in no case shall the period of time exceed 72 hours immediately preceding the meeting for which such proxy is to be used or acted upon, and further provided that any period of time so fixed shall be specified in the notice calling the meeting. ^{Deposit of proxy.}

Power of
director to
act as proxy.

(7) A director of a company may be appointed and act as a proxy at any meeting of the company, notwithstanding that he is an officer of the company within the meaning of any special Act. R.S.O. 1937, c. 251, s. 52 (5-7).

Where
meetings
to be held.

53. Meetings of the shareholders, directors and executive committees shall be held at the place where the head office of the company is situate except when otherwise provided by the special Act, letters patent, supplementary letters patent or the by-laws of the company, but shall not be held out of Ontario unless when so authorized by the special Act, letters patent or supplementary letters patent. R.S.O. 1937, c. 251, s. 53.

PART V

SHARES, CALLS

Share
certificates.

54.—(1) Every shareholder shall, without payment, be entitled to a certificate signed by the proper officer in accordance with the company's by-laws in that behalf stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

Signing
certificates.

(2) The company may by by-law provide that the signatures of the officer or officers designated to sign certificates may be engraved, lithographed or otherwise mechanically reproduced upon certificates for shares, and in such event, subject to the provisions of such by-law, certificates so signed shall be deemed to have been manually signed and shall be as valid to all intents and purposes as if they had been manually signed.

Evidence
of title.

(3) The certificate shall be *prima facie* evidence of the title of the shareholder to the shares mentioned in it.

Shares
issued
in pounds
sterling or
francs or
marks.

(4) Where a company issues shares in pounds sterling, francs or marks, shares previously issued in Canadian currency may, at the option of the holder, be exchanged for shares in pounds sterling, francs or marks.

Fee for
certificate.

(5) Any company incorporated under Part XI may make a charge of 25 cents for the issuance of every certificate referred to in subsection 1.

Shares to
include share
warrants.

(6) Shares shall include share warrants, where the company is authorized to issue the same. R.S.O. 1937, c. 251, s. 54.

55. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding 25 cents and on such terms, if any, as to evidence and indemnity as the directors think fit. R.S.O. 1937, c. 251, s. 55.

Lost
certificate.

56.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as by this Act, the special Act, letters patent, supplementary letters patent or by-laws of the company may be prescribed.

Shares
personal
estate.

(2) Subject to section 58, no by-law shall be passed which in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. R.S.O. 1937, c. 251, s. 56.

Restrictions
on transfer.

57.—(1) No transfer of shares the whole amount whereof has not been paid up shall be made without the consent of the directors.

When
directors'
consent
required.

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be liable jointly and severally to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been liable.

Their li-
ability if
they allow
transfers
to persons
without
means.

(3) If any director present when such transfer is allowed, forthwith, or if any director then absent, within 24 hours after he becomes aware of such transfer and is able to do so, enters his written protest against the same, and, within eight days thereafter, gives notice of his protest by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from such liability.

Relief from
liability by
entering
protest.

(4) Where a share upon which a call is unpaid is transferred, with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall also remain liable for the call until it has been paid. R.S.O. 1937, c. 251, s. 57.

Liability
where call
remains
unpaid.

58. Where the letters patent, supplementary letters patent or by-laws of a corporation confer that power on the directors, they may decline to register a transfer of shares belonging to

Refusal to
register
transfer of
shareholder
indebted to
corporation.

a shareholder who is indebted to the corporation. R.S.O. 1937, c. 251, s. 58.

Closing
transfer
books
pending
distribution
of dividend.

59. The directors, upon declaring a dividend upon shares, may direct that no entry of transfers shall be made in the books of the company for a period of two weeks immediately preceding the payment of such dividend, and payment thereof shall be made to the shareholders of record on the date of closing such books. R.S.O. 1937, c. 251, s. 59; 1948, c. 13, s. 4.

Transfer
valid only
after entry.

60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the company and its creditors until entry thereof has been duly made in the books of the company. R.S.O. 1937, c. 251, s. 60.

Transferor
may be
notified.

61.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

Owner may
lodge caveat.

(2) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of 48 hours.

Transfer
may be
entered if
no order
served.

(3) If, within one week from the giving of such notice or the expiration of the period of 48 hours, whichever last expires, no order of a competent court enjoining the entry of such transfer has been served upon the company, the transfer may be entered.

Company
not to be
liable if
section
complied
with.

(4) Where a transfer is entered after the proceedings mentioned in this section, the company in respect of the shares so transferred shall be free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against the transferee. R.S.O. 1937, c. 251, s. 61.

Deposit
of foreign
probate,
letters of
adminis-
tration, etc.,
with officer
of company.

62.—(1) Subject to *The Succession Duty Act*,

- (a) where a transmission of shares or other securities of a company takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy; and

Rev. Stat.,
c. 378.

- (b) where the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in Canada, or in the United Kingdom of Great Britain and Northern Ireland, or in any other of His Majesty's dominions, or in any of His Majesty's colonies or dependencies or in any foreign country,

the probate of the will or the letters of administration or the document testamentary or, in the case of a transmission by notarial will in the Province of Quebec, a copy thereof duly certified in accordance with the laws of the Province of Quebec, or the other judicial or official instrument, or an authenticated copy thereof or official extract therefrom under the seal of such court or other authority, without any proof of the authenticity of such seal or other proof whatever, shall be produced, and a true copy thereof, together with a declaration in writing showing the nature of the transmission, signed and executed by such one or more of the persons claiming by virtue thereof as the company may require, or, if any such person be any other company, signed and executed by an officer of such other company, shall be deposited with an officer of the company or other person authorized by the directors of the company to receive them. 1947, c. 15, s. 4.

- (2) Such production and deposit shall be sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture or obligation or share, or transferring, or consenting to the transfer of any bond, debenture or obligation or share, in pursuance of, and in conformity to such probate, letters of administration or other such document aforesaid, but such payment, transfer or consent to transfer, shall not be made until the provisions of *The Succession Duty Act* have been complied with. R.S.O. 1937, c. 251, s. 62 (2).
- Transmission
of interest
on death.

Rev. Stat.,
c. 378.

63.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held, at such times and places and in such payments or instalments as this Act, the special Act, letters patent, supplementary letters patent or by-laws of the company require or allow, and interest shall accrue upon the amount of any unpaid call from the day appointed for payment of such call.

Calling in
instalments.

- (2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited.
- Demand to
state liability
to forfeiture.

Forfeiture
of shares.

(3) If, after the demand, any call is not paid within the time and in the manner provided by the special Act, letters patent, supplementary letters patent or by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and the shares shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may determine; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. R.S.O. 1937, c. 251, s. 63.

Interpre-
tation.

64.—(1) In this section, "arrangement" shall be construed as extending to a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both of these methods. R.S.O. 1937, c. 251, s. 64.

Compromise
between
shareholders
and
company.

(2) Where a compromise or arrangement is proposed between a company and its shareholders or any class of them affecting the rights of shareholders or any class of them under the company's letters patent or supplementary letters patent or by-laws, a judge of the Supreme Court may on application in a summary way of the company or of any shareholder order a meeting of the shareholders of the company or of any class of shareholders, as the case may be, to be summoned in such manner as the judge directs.

Sanction and
confirmation
of such
compromise.

(3) If the shareholders or class of shareholders, as the case may be, present in person or by proxy at the meeting, by three-fourths of the shares of each class represented agree to the compromise or arrangement either as proposed or as altered or modified at such meeting called for the purpose, the compromise or arrangement may be sanctioned by a judge as aforesaid, and if so sanctioned the compromise or arrangement and any reduction or increase of share capital and any provision for the allotment or disposition thereof by sale or otherwise as therein set forth, may be confirmed by supplementary letters patent, which shall be binding on the company, and the shareholders or class of shareholders, as the case may be.

Notice of
compromise
when there
are dissen-
tient votes.

(4) Where at a meeting called as hereinbefore provided dissentient votes are cast by shareholders of one or more classes affected, and where, notwithstanding such dissentient votes, the compromise or arrangement is agreed to by the holders of three-fourths of each class represented, it shall be necessary that the company notify each shareholder in such manner as may be prescribed by the judge of the time and

place when application will be made to the judge for the sanction of the compromise or arrangement.

Share Warrants

65. A company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions thereof may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the share or shares included in the warrant hereafter termed a share warrant. R.S.O. 1937, c. 251, s. 65. Share warrants.

66. A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant. R.S.O. 1937, c. 251, s. 66. Effect of share warrant.

67. The bearer of a share warrant shall, subject to the provisions and regulations respecting share warrants contained in the letters patent or supplementary letters patent, be entitled, on surrendering it for cancellation, to have his name entered on the books of the company as the holder of the shares specified in such share warrant, and the company shall be responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled. R.S.O. 1937, c. 251, s. 67. Exchanging warrant for entry as shareholder.

68. The bearer of a share warrant may, if the provisions and regulations respecting share warrants so provide, be deemed to be a shareholder of the company either to the full extent or for any purposes defined by such regulations, except that he shall not be qualified in respect of the shares specified in the warrant for being a director of the company. R.S.O. 1937, c. 251, s. 68. When bearer of warrant may be deemed a shareholder.

69. On the issue of a share warrant the company shall remove from its books the name of the shareholder then entered therein as holding such share or shares as if he had ceased to be a shareholder, and shall enter in such books, When shareholder has share warrant issued, entry in books.

(a) the fact of the issue of the warrant;

(b) a statement of the shares included in the warrant;
and

- (c) the date of the issue of the warrant. R.S.O. 1937, c. 251, s. 69.

Entry on
surrender.

70. Until the warrant is surrendered, the particulars set out in section 69 shall be deemed to be the particulars required by this Act to be entered in the books of the company in respect of such share or shares, and on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a shareholder. R.S.O. 1937, c. 251, s. 70.

Representa-
tion of shares
at general
meeting.

71. Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant shall not be counted as part of the stock of the company for the purposes of a general meeting. R.S.O. 1937, c. 251, s. 71.

Trusts.

72.—(1) A company shall not be bound to see to the execution of any trust, whether express, implied or constructive to which any share is subject.

Sufficient
discharge.

(2) The receipt of the person in whose name the share stands on the books of the company shall be a sufficient discharge to the company for any payment made in respect of such share, whether or not the company had notice of such trust.

Application
of money
paid.

(3) The company shall not be bound to see to the application of the money paid upon such receipt. R.S.O. 1937, c. 251, s. 72.

Trustees,
etc.,
mortgagor
may vote.

73.—(1) An executor, administrator, guardian, trustee or committee of a mentally incompetent person and where a corporation is such executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust*, or mentally incompetent person, any officer or employee of such corporation or any shareholder of the company duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings, and may vote accordingly as a shareholder unless, in the instrument creating the mortgage or hypothecation, he has expressly empowered the holder of such mortgage or hypothecation to vote thereon, in which case only such holder or his proxy may vote in respect of such shares.

Joint
holders
of stock.

(2) If shares are held jointly by two or more persons any one of them present at a meeting may, in the absence of the

other or others, vote thereon, but if more than one of them are present, or represented by proxy, they shall vote together on the shares jointly held.

(3) Where a corporation is executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, such corporation may appoint any of its officers, or employees, or a shareholder of the company, as proxy to represent the shares at any such meeting and to vote accordingly as a shareholder. R.S.O. 1937, c. 251, s. 73. Corporation may vote as trustee, etc.

74.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part, and the amount due on such execution, but not beyond the amount so unpaid on his shares, shall be the amount recoverable against such shareholder. Liability of shareholders.

(2) A shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as president or director of the company. R.S.O. 1937, c. 251, s. 74. Set-off.

75. A shareholder shall not, as such, be answerable for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares. R.S.O. 1937, c. 251, s. 75. Shareholders not liable beyond unpaid amount.

76.—(1) No person holding shares as executor, administrator, guardian, committee of a mentally incompetent person or trustee, of or for any estate, trust or person named in the books of the company as being so represented by him shall be personally subject to any liability as a shareholder, but the estates and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward, mentally incompetent person or person interested therein would be, if living and competent to act as the holder of such shares. Trustees not personally liable.

(2) If the trust is for a living person not under disability such person shall also be liable as a shareholder. Liability of beneficiary.

(3) If the testator, intestate, ward, mentally incompetent person or person so represented is not named in the books of the company the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such Where beneficiary, etc., not named trustee, etc., liable.

shares as if he held them in his own name as owner thereof. R.S.O. 1937, c. 251, s. 76.

Mortgagees
prior to
foreclosure.

77. No person holding shares as collateral security shall, prior to foreclosure, be personally subject to liability as a shareholder, but the person transferring such shares as collateral security shall, until foreclosed, be considered as holding the shares, and shall be liable as a shareholder in respect thereof. R.S.O. 1937, c. 251, s. 77.

PART VI

PREFERENCE AND DEBENTURE STOCK, DEBENTURES AND MORTGAGES

By-laws,

78.—(1) The directors of a corporation may make by-laws,

for borrow-
ing money;

(a) for borrowing money;

issuing
securities;

(b) for issuing bonds, debentures, debenture stock, both perpetual and terminable, or other securities;

disposing of
securities.

(c) for pledging or selling such bonds, debentures or debenture stock, or other securities for such sum and at such prices as may be deemed expedient or be necessary.

By-laws,

(2) The directors of a company may make by-laws,

for creating
preference
shares;

(a) for creating and issuing any part of the capital as preference shares;

conversion
of preference
shares.

(b) for the conversion of preference shares into common shares or debentures or debenture stock, debentures into debenture stock or preference shares, or any class of shares or securities into any other class.

General
power of
borrowing
not affected.

(3) Nothing in this section shall limit or restrict the power of a corporation to borrow money on bills of exchange, promissory notes, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business. R.S.O. 1937, c. 251, s. 78.

Confirming
by-law.

79. No by-law for any of the purposes mentioned in section 78 shall take effect until it has been confirmed by a vote of shareholders present, or represented by proxy and holding not less than two-thirds of the issued capital stock represented at the meeting or by a vote of two-thirds of the

members so present or represented, as the case may be, at a general meeting duly called for considering the by-law. R.S.O. 1937, c. 251, s. 79.

80.—(1) A by-law for the creation and issue of preference shares or for the conversion of shares, debentures or debenture stock into preference shares may provide that the holders of such shares shall have such preference as regards dividends and repayment on dissolution or winding-up as may be therein set out, and the right to select a stated proportion of the board of directors, or such other control over the affairs of the company as may be considered expedient, or may limit the right of the holders thereof to specific dividends or control of the affairs of the company or otherwise, not contrary to law or to this Act, and may provide for the purchase or redemption of such shares by the company as therein set out, but any term or provision of such by-law, whereby the rights of holders of such shares are limited or restricted, shall be fully set out in the certificate of such shares and in the event of such limitations and restrictions not being so set out they shall not be deemed to qualify the rights of holders thereof.

By-law for issue of preference shares.

(2) No such by-law which has the effect of increasing or decreasing the capital of the company, or increasing the amount of the preference stock authorized by the special Act, letters patent, supplementary letters patent, or any prior by-law of the company, or otherwise varying any term or provision thereof, shall be valid or acted upon until confirmed by supplementary letters patent.

When confirmation by supplementary letters patent required.

(3) Subsection 2 shall not apply to any by-law which creates or attempts to create redeemable or convertible preference shares, but a copy of such by-law certified under the seal of the company shall be filed forthwith in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 80.

Copy of by-law creating redeemable or convertible shares to be filed.

81. Unless preference shares, debenture stock, debentures or bonds are issued subject to redemption or conversion the same shall not be subject to redemption or conversion without the consent of the holders thereof. R.S.O. 1937, c. 251, s. 81.

Consent of holders to redemption.

82.—(1) The directors may charge, hypothecate, mortgage or pledge any or all of the real or personal property, including book debts and unpaid calls, rights, powers, undertaking and franchises of the corporation to secure any bonds, debentures, debenture stock, or other securities, or any liability of the corporation.

Mortgages to secure debentures, etc.

(2) A duplicate original of such charge, mortgage or other instrument of hypothecation or pledge made to secure such

Duplicate to be filed and registered.

bonds, debentures or debenture stock or other securities shall be filed forthwith in the office of the Provincial Secretary as well as registered under the provisions of any other Act in that behalf.

Exception.

(3) Subsection 2 shall not apply to any mortgage filed with the Provincial Secretary under any other Act. R.S.O. 1937, c. 251, s. 82.

PART VII

DIRECTORS AND THEIR POWERS, ETC.

First directors and election of others.

83. The persons named as provisional directors in the special Act or in the letters patent shall be the directors of the company until replaced by the same number of others duly elected in their stead by the shareholders in general meeting, which shall be held not later than six months after the coming into force of the special Act or the date of the letters patent, and they shall be eligible for election. R.S.O. 1937, c. 251, s. 83.

Board of directors.

84. The affairs of the company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting. R.S.O. 1937, c. 251, s. 84.

Business must be transacted by quorum.

85.—(1) Except as in this section provided no business of a company shall be transacted by its directors unless at a meeting of directors at which a quorum of the board is present.

Majority to constitute quorum.

(2) Unless otherwise provided by the letters patent or supplementary letters patent a majority of the directors shall be necessary to constitute a quorum.

Filling vacancies while there is a quorum.

(3) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

Calling meeting when no quorum.

(4) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

Calling meeting when no directors.

(5) If there are no directors remaining in office a meeting to elect directors may be called by any shareholder. R.S.O. 1937, c. 251, s. 85.

86.—(1) The shareholders of a company having more than six directors may, by a resolution passed by a vote of those present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at a general meeting called for that purpose, authorize the directors to delegate any of their powers to an executive committee, consisting of not less than three, to be elected by the directors from their number. Executive committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulation that may be imposed upon them by such resolution or by the directors. Committee subject to regulations.
R.S.O. 1937, c. 251, s. 86.

87.—(1) Subject to subsection 3, no person shall hold office as a director unless he is a shareholder of the company and where any director ceases to be a shareholder he shall thereupon cease to be a director. Qualification of directors.

(2) No person who is an undischarged bankrupt shall hold office as a director and where any director becomes a bankrupt he shall thereupon cease to be a director. Director not to be a bankrupt.

(3) When a corporation holds shares in trust as executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, any officer or officers of such corporation may be elected as a director or directors and when such corporation ceases to hold such shares in trust, any officer so elected shall thereupon cease to be a director. Corporation holding shares in trust as director.

(4) A director holding shares only in trust as executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, or a director elected under subsection 3, shall not be personally liable under section 98, but the estate or other beneficial owner of the shares held in trust by such director or by the corporation of which such director is an officer shall be subject to all the liabilities imposed upon directors by section 98. 1947, c. 15, s. 5. Liability of corporation directors and persons holding shares in trust.

88. A corporation operating a hospital within the meaning of *The Public Hospitals Act*, may, by by-law, provide that a person may, with his consent in writing, be elected a director of the corporation at a general meeting of the shareholders or members notwithstanding that such person is not a shareholder or member of the corporation. 1941, c. 13, s. 1. Directors of hospital corporations. Rev. Stat., c. 307.

89. In the absence of other provisions in that behalf, in the letters patent or supplementary letters patent or by-laws of the company, Election of directors.

- (a) the election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for re-election;
- (b) every election of directors shall be by ballot;
- (c) the directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the company, and may also appoint all other officers thereof. R.S.O. 1937, c. 251, s. 88.

Failure to elect directors, how remedied.

90. If an election of directors is not made, or does not take effect at the proper time, the company shall not thereby be dissolved, but the election may take place at any general meeting of the company duly called for that purpose, and the directors shall continue in office until their successors are duly elected. R.S.O. 1937, c. 251, s. 89.

Change by by-law of number or quorum of directors or of head office in Ontario.

91.—(1) A company may, by by-law, vary the number of its directors, but so that the number shall be not less than three, and may change the location of the head office in Ontario, and, if so authorized by the letters patent or supplementary letters patent, fix the quorum of the board.

Chairman of board of directors.

(2) A company may by by-law provide for the election of a chairman of the board of directors, and define his duties and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the company as prescribed by this Act, and in that case the by-law shall fix and prescribe the duties of the president.

Powers of chairman under by-law.

(3) When a by-law has been passed under subsection 2 for the appointment of a chairman of the board of directors, this Act so far as it affects the company passing the by-law shall be read as if the chairman of the board of directors had been named in the Act instead of the president, so far as the by-law transfers or assigns the duties of the president to the chairman of the board of directors.

By-law to be confirmed by shareholders.

(4) No such by-law shall take effect until confirmed by a vote of shareholders present or represented by proxy at a meeting duly called for considering the by-law and holding not less than two-thirds of the issued capital stock represented at the meeting.

Publication.

(5) A copy of the by-law certified under the seal of the company shall be forthwith filed in the office of the Provincial

Secretary and published in *The Ontario Gazette*, and, in case of the removal of the head office, twice in a newspaper published in the place where the head office was located and also twice in a newspaper published in the place to which the head office is to be removed or as near thereto as may be.

R.S.O. 1937, c. 251, s. 90.

92.—(1) The directors may pass by-laws, not contrary to By-laws, law or to the letters patent or supplementary letters patent, to regulate,

- (a) the allotment of shares, the making of calls thereon, shares; the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, and the transfer of shares;
- (b) the declaration and payment of dividends; dividends;
- (c) the amount of the share qualification of the directors directors' services, etc.; and the remuneration of the directors and of the president and vice-president;
- (d) the time at which and place where the meetings of meetings; the company shall be held, the calling of meetings of the company, and the procedure in all things at such meetings and, except as provided by section 52, of the requirements as to proxies;
- (e) the conduct in all other particulars of the affairs of miscellaneous. the company.

(2) Subject to subsection 3, every such by-law and every Confirmation of by-laws. repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have force only until the next annual meeting of the company, and in default of confirmation thereat shall, at and from that time, cease to have force, and in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting of the company.

(3) The company may, either at a general meeting called By-laws may be varied. for that purpose or at the annual meeting, repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. R.S.O. 1937, c. 251, s. 91.

Payments to president or directors.

93. No by-law for the payment of the president or of any director shall be valid or acted upon unless passed at a general meeting, or, if passed by the directors, until the same has been confirmed at a general meeting. R.S.O. 1937, c. 251, s. 92.

Directors not to vote on contracts in which they have a personal interest, etc.

94.—(1) No director shall at any directors' meeting vote in respect of any contract or arrangement made or proposed to be entered into with the company in which he is interested either as vendor, purchaser or otherwise.

No liability where interest disclosed, and refrains from voting.

(2) A director who may be in any way interested in any contract or arrangement proposed to be made with the company shall disclose the nature of his interest at the meeting of the directors at which such contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest, and if he discloses the nature of his interest and refrains from voting, he shall not be accountable to the company or any of its shareholders or creditors by reason of the fiduciary relationship existing for any profit realized by such contract or arrangement; but no director shall be deemed to be in any way interested in any contract or arrangement, nor shall he be disqualified from voting or be held liable to account to the company by reason of his holding shares in any other company with which a contract or arrangement is made or contemplated.

Exception.

(3) This section shall not apply to any contract by or on behalf of a company to give the directors or any of them security by way of indemnity. R.S.O. 1937, c. 251, s. 93.

Liability of directors declaring a dividend when company is insolvent, etc.

95.—(1) The directors shall not declare or pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or diminishes the capital thereof; but if any director present when such dividend or bonus is declared, forthwith, or if any director then absent, within 24 hours after he has become aware thereof and able to do so, enters his written protest against the same, and, within eight days thereafter, gives notice of his protest by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from liability.

Companies with wasting assets declaring or paying dividends.

(2) Nothing in this section shall prevent a mining company or a company whose assets are of a wasting character, or a company heretofore or hereafter incorporated under this Act whose principal object is the acquisition of the assets, or a substantial part of the assets, of another corporation, either from such corporation or from the assign of such corporation;

for the purpose of converting such assets into money and distributing the money of the company among its shareholders and the administration of such assets pending conversion and distribution thereof, from declaring or paying dividends out of its funds derived from the operations of the company, provided that in the case of a company incorporated for the object last mentioned such dividends shall be paid only in accordance with the priorities of shareholders as prescribed by the letters patent or supplementary letters patent of such company.

(3) The powers conferred by subsection 2 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the par value of the issued capital stock of the company if the payment of the dividends does not reduce the value of its remaining assets so that they will be insufficient to meet all the liabilities of the company exclusive of its nominal paid-up capital. How far capital may be impaired.

(4) A dividend may be paid by any such company distributing in specie or in kind assets of the company not exceeding in value the amount of the dividend. Dividends, how payable.

(5) The powers conferred by subsection 2 shall not be exercised by any such company unless under the authority of a by-law passed by the directors and confirmed at a general meeting duly called for the purpose of considering the by-law by a vote of the shareholders present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at such meeting. Approval of shareholders.

(6) Where dividends have already been paid by such a company in any of the cases mentioned in subsection 2, the payment thereof shall be deemed valid if a by-law adopting and approving the same is passed by the directors and approved by vote of the shareholders in the manner mentioned in subsection 5. R.S.O. 1937, c. 251, s. 94. Validity of payments.

96. For the amount of any dividend which the directors may lawfully declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. R.S.O. 1937, c. 251, s. 95. Stock dividends.

97. No loan shall be made by the company to any shareholder, and if such a loan is made all directors and other No loan by company to shareholders.

officers of the company making the loan and in any way assenting thereto shall be liable jointly and severally to the company for the amount thereof, and also to third parties to the extent of such loan with interest, for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof. R.S.O. 1937, c. 251, s. 96.

Liability of
directors
for wages.

98.—(1) The directors of the company shall be liable jointly and severally to the labourers, servants and apprentices thereof for all debts not exceeding one year's wages due for services performed for the company while they are such directors respectively.

Idem.

(2) A director shall not be liable under subsection 1 unless he is sued for such debt while a director or within one year after he has ceased to be a director and,

- (a) the company has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or
- (b) the company has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved.

Liability for
amount
unsatisfied
on execution.

(3) If execution has so issued the amount recoverable against the director shall be the amount remaining unsatisfied on the execution.

On payment
director
entitled to
assignment
of judgment,
etc.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings, a director, upon payment of the debt, shall be entitled to any preference to which the creditor paid would have been entitled, and where a judgment has been recovered, he shall be entitled to an assignment of the judgment. R.S.O. 1937, c. 251, s. 97.

PART VIII

PROSPECTUS AND DIRECTORS' LIABILITY

When a
commission
may be paid.

99.—(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, if the payment of the commission and the

amount or rate of the commission paid or agreed to be paid are authorized by the letters patent or supplementary letters patent.

(2) Except as provided by subsection 1, no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise.

Capital not to be applied in paying commissions except as authorized.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay. R.S.O. 1937, c. 251, s. 98.

Brokerage may be paid.

100.—(1) Where any advertisement, letter-head, account or document issued or published by any corporation or any of its officers, agents or employees purports to state the capital of the corporation, unless it is stated to be the authorized capital, then the capital actually and in good faith subscribed and no more shall be so stated. R.S.O. 1937, c. 251, s. 99 (1).

Capital to be correctly stated in advertisements, etc.

(2) Any such corporation, officer, agent or employee who causes to be inserted an advertisement or who publishes, issues or causes to be published or issued any advertisement, letter-head, account or document which states the capital, otherwise than as mentioned in subsection 1, or which contains any false statement as to the incorporation, control, supervision, management or financial standing of such corporation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$200. R.S.O. 1937, c. 251, ss. 99 (2), 129.

Penalty.

PART IX

BOOKS, INSPECTION AND AUDITORS

101. The corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded,

Record books to be kept, contents.

- (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if

incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;

- (b) the names, alphabetically arranged, of all persons who are and who have been shareholders or members of the corporation;
- (c) the post office address and calling of every such person while such shareholder or member;
- (d) the names, post office addresses and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be a director,

and in the case of a corporation having share capital,

- (e) the number of shares held by each shareholder;
- (f) the amounts paid in and the amounts remaining unpaid on the shares of each shareholder;
- (g) the date and other particulars of all transfers of shares in their order. R.S.O. 1937, c. 251, s. 101.

Books to be kept at head office.

102.—(1) The books mentioned in sections 101 and 107 shall be kept at the head office of the corporation within Ontario, whether the company is permitted to hold its meetings out of Ontario or not. R.S.O. 1937, c. 257, s. 102 (1).

Penalty for removal.

(2) Any director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$200. R.S.O. 1937, c. 251, ss. 102 (2), 129.

Exception.

(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for inspection to the Provincial Secretary, the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit. R.S.O. 1937, c. 251, s. 102 (3).

Untrue entries.

103.—(1) No director, officer or employee of the corporation shall knowingly make or assist in making any untrue

entry in any of its books, or refuse or neglect to make any proper entry therein.

(2) Any person wilfully violating the provisions of this section shall be liable in damages for all loss or injury which any person interested may have sustained thereby. R.S.O. 1937, c. 251, s. 103. Penalty.

104.—(1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the Supreme Court for an order that the book or books be rectified, and the court may either refuse such application or may make an order for the rectification of the book, and may direct the corporation to pay any damages the party aggrieved may have sustained. Powers of judge as to entries in, omissions from and rectification of books.

(2) The court may, in any proceeding under this section, decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from such books, whether such question arises between two or more shareholders or alleged shareholders, or members, or between any shareholder or alleged shareholder or member and the corporation, and the court may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the books. Decision as to title.

(3) The court may direct an issue to be tried. Trial of issue.

(4) An appeal shall lie from the decision of the court as if the same had been given in an action. Appeal.

(5) This section shall not deprive any court of any jurisdiction it may otherwise have. Jurisdiction of courts not affected.

(6) The costs of any proceeding under this section shall be in the discretion of the court. R.S.O. 1937, c. 351, s. 104. Costs.

105.—(1) The books mentioned in section 101 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, members and creditors of the corporation and their personal representatives or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom. R.S.O. 1937, c. 251, s. 105 (1). Books to be open for inspection.

List of
share-
holders.

(2) No shareholder or creditor or his agent or representative shall make or procure to be made a list of all or any of the shareholders of a company unless he has filed with the company or its agent an affidavit of such shareholder or creditor (Form 6) that the list is required only for purposes connected with such company and will be used for such purposes only, and where the shareholder or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation.

Penalty for
unauthorized
use of list.

(3) Any person other than a company or its agent who uses a list of all or any of the shareholders of such company for the purpose of delivering or sending to all or any of such shareholders advertising or other printed matter relating to shares, bonds, debentures or other securities other than the shares, bonds, debentures or other securities of such company, or for purposes not connected with the company, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 and in default of payment to a term of imprisonment of not more than six months. 1946, c. 10, s. 2, *part, amended*.

Purposes
connected
with the
company
defined.

(4) Purposes connected with the company shall be deemed to include any effort to influence the voting of shareholders at a special or general meeting of the company or the acquisition or offering of shares to acquire control or to effect an amalgamation or re-organization, or any other purpose approved by the Provincial Secretary. 1947, c. 15, s. 7.

Penalty for
selling or
purchasing
list.

(5) Any person who offers for sale or sells or purchases or otherwise traffics in a list or copy of a list of all or any of the shareholders of any company shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 and in default of payment to a term of imprisonment of not more than six months. 1946, c. 10, s. 2, *part, amended*.

Liability
for refusal
to allow
inspection
of books.

(6) Any director or officer who refuses to permit any person entitled thereto to inspect such books, or make extracts therefrom, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 251, ss. 105 (2), 129.

Books to be
prima facie
evidence.

106. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the corporation or against any shareholder or member. R.S.O. 1937, c. 251, s. 106.

107. The directors shall cause proper books of account to be kept containing full and true statements, Books of account, minute books.

(a) of the financial transactions of the corporation;

(b) of the assets of the corporation;

(c) of the sums of money received and expended by the corporation, and the matters in respect of which such receipt or expenditure took place; and

(d) of the credits and liabilities of the corporation,

and a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation. R.S.O. 1937, c. 251, s. 107.

108. If any person in any return, report, certificate, balance sheet or other document required by or for the purposes of this Act wilfully makes a statement false in any material particular, he shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not more than three months, and shall be liable to a penalty of not more than \$100 in lieu of or in addition to such imprisonment. R.S.O. 1937, c. 251, ss. 108, 129. False returns, etc.

109.—(1) Upon an application by the shareholders of a corporation with share capital, holding not less than one-fifth in value of the issued shares of the corporation, or one-fifth in number of the members of a corporation without share capital, the Supreme Court may appoint an inspector to investigate its affairs and management. The court may appoint an inspector to make investigation.

(2) Such inspector shall report thereon to the court, and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants, or partly by the corporation and partly by the applicants. Report on and expense of investigation.

(3) The court may require the applicants to give security to cover the probable cost of the investigation, and may make rules and prescribe the manner in which and the extent to which the investigation shall be conducted. Security for costs.

(4) A corporation may, by resolution passed at the annual meeting, or at a special general meeting called for that purpose, appoint an inspector to examine into the affairs of the corporation. Corporation may appoint for same purpose.

Powers and duties of inspector.

(5) The inspector so appointed shall have the same powers and perform the same duties as an inspector appointed by the Supreme Court, and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production of books and documents.

(6) All officers and agents of the corporation shall produce for the examination of any inspector appointed under this section all books and documents in their custody or power.

Examination on oath.

(7) Any such inspector may examine upon oath the officers, agents and employees of the corporation in relation to its business. R.S.O. 1937, c. 251, s. 109 (1-7).

Penalty for non-production.

(8) If any officer or agent refuses to produce any such book or document, or if any person so examined refuses to answer any question relating to the affairs of the corporation, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for each offence. R.S.O. 1937, c. 251, ss. 109 (8), 129.

Annual audit.

110. The accounts of a corporation shall be examined once at least in every year, and the correctness of the balance sheet shall be ascertained by an auditor or auditors. R.S.O. 1937, c. 251, s. 110.

First auditors.

111. The first auditors of a corporation may be appointed by the directors before the first meeting of the shareholders or members, and shall hold office until the first general meeting. R.S.O. 1937, c. 251, s. 111.

Subsequent auditors.

112. Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders or members in general meeting. R.S.O. 1937, c. 251, s. 112.

Auditors may be shareholders.

113. The auditors may be shareholders or members of the corporation, but no person shall be eligible as an auditor who is interested, otherwise than as a shareholder or member, in any transaction of the corporation, and no director or other officer of the corporation shall be eligible during his continuance in office. R.S.O. 1937, c. 251, s. 113.

In default Provincial Secretary may appoint.

114. If an appointment of auditors is not made at an annual meeting, the Provincial Secretary, on the application of any shareholder or member of the corporation, may appoint an auditor for the current year and fix the remuneration, if any, to be paid to him by the corporation for his services. R.S.O. 1937, c. 251, s. 114.

115. The directors of a corporation may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor shall be eligible for reappointment. R.S.O. 1937, c. 251, s. 115.

Directors may fill casual vacancy.

116. The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors. R.S.O. 1937, c. 251, s. 116.

Remuneration of auditors.

117.—(1) Every auditor shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties.

Rights and duties of auditors.

(2) The auditors shall sign a certificate at the foot of the balance sheet stating whether or not their requirements as auditors have been complied with, and shall make a report to the shareholders or members on the accounts examined by them, and on every balance sheet laid before the corporation in general meeting during their tenure of office, and in every such report shall state whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs and as shown by its books.

Certificate and report.

(3) Such report shall be read at the general meeting. R.S.O. 1937, c. 251, s. 117.

Reading at general meeting.

PART X

MISCELLANEOUS

118. Every company shall make a return to the Provincial Secretary from time to time, as the same occur, of all changes among the directors, and shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for every contravention of this section. R.S.O. 1937, c. 251, ss. 118, 129.

Return to Provincial Secretary of change of directors, etc.

119.—(1) The Lieutenant-Governor in Council may establish, alter and regulate the tariff of fees to be paid on applications, returns, filings and all transactions under this Act, and may prescribe the form of proceedings and record in respect thereof, and all other matters which he may deem requisite for carrying out the objects of this Act.

Tariff of fees.

Fees may vary in amount.

(2) Such fees may be made to vary in amount, having regard to the nature of the corporation, amount of capital and otherwise, as may be deemed expedient.

Restriction.

(3) No step shall be taken towards the issue of any letters patent or supplementary letters patent or the filing of any document under this Act, until all fees therefor and all fees due for any other service have been duly paid. R.S.O. 1937, c. 251, s. 119.

No compliance with Act to file returns, etc., without payment of fees.

120. No tender or transmission of any return, by-law or other document shall be a due compliance with the provisions of this Act unless the prescribed fee for receiving and filing the same has been paid to and has been accepted by the Provincial Secretary. R.S.O. 1937, c. 251, s. 120.

Evidence of by-laws.

121. A copy of any by-law of a corporation under its seal and purporting to be signed by any officer of the corporation, or a certificate similarly authenticated, to the effect that a person is a shareholder or member of the corporation, and that dues or other sums payable are due and have not been paid, or that a call or assessment which has been made, is due and has not been paid, shall be received in all courts as *prima facie* evidence of the by-law or of the statements contained in such certificate. R.S.O. 1937, c. 251, s. 121.

Authentication of documents, etc.

122. A document or proceeding requiring authentication by a corporation may be signed by any director, manager or other authorized officer of the corporation, and need not be under its seal. R.S.O. 1937, c. 251, s. 122.

Service of notices.

123. A notice or demand to be served or made by a corporation upon a shareholder or member may be served or made either personally or by registered post, addressed to the shareholder or member at his place of abode as it last appeared on the books of the corporation. R.S.O. 1937, c. 251, s. 123.

Time of service.

124. A notice or other document served by post by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of post. R.S.O. 1937, c. 251, s. 124.

Sanctioning by-laws by written consent of all shareholders.

125. Any by-law by this Act requiring confirmation by the shareholders or members of the corporation may in lieu of confirmation at a general meeting be confirmed by the consent in writing of all the shareholders or members entitled to vote at such meeting. R.S.O. 1937, c. 251, s. 125; 1947, c. 15, s. 8:

126. Proof of any matter which may be necessary to be made under this Act may be made by statutory declaration, affidavit, or deposition before the Provincial Secretary, or any officer to whom the matter may be referred by him, or before any person authorized to take affidavits. R.S.O. 1937, c. 251, s. 126. Proof of matters under this Act.

127. A corporation may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute on its behalf deeds to which it is a party in any capacity in any place situate within or without Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal shall bind the corporation and have the same effect as if it were under the common seal of the corporation. R.S.O. 1937, c. 251, s. 127. Power of attorney by corporation.

128.—(1) A corporation may have for use in any territory, district or place not situate in Ontario an official seal, which shall be a facsimile of the common seal of the corporation, with the addition on its face of the name of every territory, district or place where it is to be used. Power of corporation to have official seal for use abroad.

(2) A corporation having such an official seal may by writing under its common seal, authorize any person appointed for the purpose in any territory, district or place not situate in Ontario, to affix the seal to any deed or other document to which the corporation is party in any capacity in that territory, district or place. Authority to agent to affix seal.

(3) The authority of any such agent shall, as between the corporation and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is therein mentioned, then until notice of the revocation or termination of the agent's authority has been given to the person dealing with him. Duration of agent's authority.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the seal. Certifying date and period of sealing.

(5) A deed or other document to which an official seal is duly affixed shall bind the corporation as if it had been sealed with the common seal of the corporation. R.S.O. 1937, c. 251, s. 128. Official seal to have same effect as common seal.

129. A company or corporation which insures property with or insures the property of other persons, firms, companies Reciprocal insurance.

or corporations, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. R.S.O. 1937, c. 251, s. 130.

Purchase of shares for benefit of employees.

130.—(1) A company may provide, in accordance with any scheme for the time being in force, money for the purchase by trustees of fully paid shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company.

Loans to employees not purchase shares.

(2) A company may make loans to persons *bona fide* in the employment of the company with a view to enabling those persons to purchase fully paid shares in the company to be held by themselves by way of beneficial ownership. R.S.O. 1937, c. 251, s. 131.

PART XI

MINING COMPANIES

Issuing shares at a discount.

131. A mining company incorporated before the 1st day of July, 1907, or thereafter incorporated under this Act or any predecessor of this Act and made by the letters patent subject to the provisions of this Part, may issue its shares at a discount or at any other rate in the manner hereinafter prescribed. R.S.O. 1937, c. 251, s. 132.

Shareholders not personally liable for calls.

132. No shareholder of such a company holding shares, issued as herein provided, shall be personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. R.S.O. 1937, c. 251, s. 133.

By-law authorizing issue of shares at a discount.

133. No shares shall be issued at a discount unless authorized by a by-law of the company fixing and declaring the rate and any other terms and conditions of the issue, confirmed at a general meeting of the shareholders duly called for considering the by-law. R.S.O. 1937, c. 251, s. 134.

Verified copy of by-law to be transmitted to Provincial Secretary.

134.—(1) A copy of such by-law shall be transmitted by registered post to the Provincial Secretary within twenty-four hours after the by-law has been confirmed, or be filed in his office within five days, and such copy shall be verified as a true copy by the joint affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time unable to make the affidavit, by the affidavit of the president or secretary and one of the directors or of two of the directors, as the case may require, and if the

president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit. R.S.O. 1937, c. 251, s. 135.

(2) The transmission or filing of a copy of the by-law shall be deemed to be and always to have been directory only and not a condition precedent to the validity of the by-law. 1948, c. 13, s. 5, *part*. Effect of filing.

(3) If a company fails to comply with subsection 1 it shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and every director and officer of the company who authorizes or permits such failure shall be guilty of an offence and on summary conviction shall be liable to a like penalty. 1948, c. 13, s. 5, *part*. Penalty.

135. Every such company shall have written or printed immediately after or under its name, wherever such name is used by the company or by any director, officer, servant or employee thereof, and shall have engraved upon its seal the words "NO PERSONAL LIABILITY", and upon every share certificate issued by the company, distinctly written or printed in red ink, where such share certificates are issued in respect of shares subject to call, the words "SUBJECT TO CALL", or, if in respect to shares not subject to call, the words "NOT SUBJECT TO CALL", according to the fact. R.S.O. 1937, c. 251, s. 136. What notice to appear on documents issued by company.

136.—(1) In the event of any call on shares of such a company remaining unpaid by the holder thereof for a period of 60 days after notice and demand of payment, such shares may be declared to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of the sale in a newspaper published at the place where the principal office of the company is situate, or if no newspaper is published there, then in a newspaper published at the nearest place to such office, once a week for four successive weeks. Sale of shares on non-payment of calls.

(2) The notice shall contain the number of the share certificates in respect of such shares and the number of shares, the amount of the call or calls due and unpaid and the time and place of sale. Contents of notice.

(3) In addition to the publication of the notice, it shall be personally served upon such shareholder or sent to him by registered post addressed to him at his last known place of abode. Service and publication.

Sale in
default of
payment.

(4) If the holder of such shares fails to pay the amount due thereon, with interest and the cost of advertising, before the time fixed for the sale, the secretary shall proceed to sell the shares, or such portion thereof as shall suffice to pay such calls, together with interest and the cost of advertising and of the sale.

Surplus of
proceeds.

(5) If the price of the shares so sold exceeds the amount due with interest and costs, the excess shall be paid to the defaulting shareholder on demand.

Action for
sale of shares
on non-pay-
ment of calls.

(6) In lieu of proceeding to sell under subsections 1 to 5, the company may maintain an action for the sale of the shares in the Supreme Court, and process in the action may be served upon a shareholder resident out of the jurisdiction in the same manner and subject to the same condition as process is permitted to be served out of the jurisdiction in cases provided for by the rules of court.

Action to
determine
right to sell.

(7) Where there is any question raised as to the validity of a call or as to the right to sell, an action may be brought in the Supreme Court for the purpose of determining the validity of the call and the right to sell, and process in the action may be served on a shareholder resident out of the jurisdiction as provided in subsection 6. R.S.O. 1937, c. 251, s. 137.

Appointment
of substitutes
by absent
directors.

137.—(1) A director absent from and resident outside of Canada, if authorized by the by-laws of the corporation, may appoint and authorize any shareholder holding the number of shares fixed as the qualification of a director to attend and vote, as fully and effectually as if such director were personally present, at any meeting of directors held within Ontario, and to accept any notice of such meeting.

Instrument
of authority.

(2) Such authority shall be by instrument in writing in such form as the by-laws of the corporation prescribe and its execution shall be verified by affidavit of a subscribing witness.

Acts of
substitute
to be
binding.

(3) All acts done under such authority shall be binding in all respects and to the same extent as if such director granting the authority had done such acts.

Duration of
authority of
substitute.

(4) No authority shall be made for a period exceeding one year, but, if and as provided by the laws of the corporation, any such authority may, from time to time, be renewed, and the renewal shall be in writing and so verified.

Authority
to be filed
with
secretary.

(5) Such authority and every renewal thereof so verified shall be filed forthwith with the secretary of the corporation, and a duplicate original so verified, or a notarial copy thereof;

shall be filed forthwith in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 138.

138.—(1) A company which acts in contravention of any ^{Penalty.} provision of this Part and every director, manager or officer thereof shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$200. R.S.O. 1937, c. 251, ss. 139 (1), 129.

(2) A director, manager or officer who proves that he was ^{Relief from} not a party or privy to the act, and that when he became ^{penalty.} aware of it he forthwith gave notice thereof to the Provincial Secretary, shall not be liable to the penalty imposed by this section. R.S.O. 1937, c. 251, s. 139 (2).

PART XII

CO-OPERATIVE CORPORATIONS

139.—(1) All corporations heretofore or hereafter made ^{Application} subject to Part XII of *The Companies Act* by the letters ^{of Part.} patent or supplementary letters patent shall be subject to this Part.

(2) Except where inconsistent with the provisions of this ^{Application} Part, the other provisions of this Act shall apply to a corpora- ^{of Act.} tion which is subject to this Part. 1949, c. 14, s. 1, *part.*

140. In this Part, except in subsections 3 and 5 of section ^{Interpre-} 141, "corporation" and "company" mean a corporation and ^{tation.} company respectively which is subject to this Part. 1949, c. 14, s. 1, *part.*

141.—(1) The corporate name of every corporation ^{Corporate} shall include the word "co-operative" as part thereof. ^{name.}

(2) Where a corporation, or any director, manager, officer, ^{Abbrevia-} employee, shareholder or member uses the name of the ^{tion.} corporation the word "co-operative" may be abbreviated to "co-op".

(3) Any person, partnership, organization, society, asso- ^{Offences.} ciation, company or corporation, either unincorporated or incorporated, not being a corporation subject to this Part, using in Ontario a name which includes the word "co-operative" or any abbreviation or derivation thereof shall be guilty of an offence, and any person using such name on behalf of such person, partnership, organization, society,

association, company or corporation shall also be guilty of an offence.

Penalty.

(4) Every person guilty of an offence under subsection 3 shall, on summary conviction be liable to a penalty of not more than \$100, and in default of payment to imprisonment for a term of not more than three months.

Exceptions.

(5) Subsection 3 shall not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation licensed under *The Extra-provincial Corporations Act* or to a corporation heretofore incorporated under the laws of Ontario. R.S.O. 1937, c. 251, s. 129; 1949, c. 14, s. 1, *part*.

Rev. Stat.,
c. 124.

Share
capital.

142.—(1) The share capital of a company incorporated after the 31st day of May, 1949, shall consist of one class of shares with a nominal or par value of \$5 or any multiple of \$5 not exceeding \$100, to be designated as co-operative or co-op shares.

Share
certificates.

(2) Every share certificate issued after the 31st day of May, 1949, shall,

- (a) bear upon its face the name of the company, the words "incorporated as a co-operative company and subject to Part XII of *The Companies Act* of Ontario", and a statement of the authorized capital;
- (b) state the number of shares represented thereby;
- (c) state that shares are not transferable without the authorization of the directors;
- (d) set forth the provisions of section 151;
- (e) state that the dividend, if any, to which the holder of a share may become entitled shall not exceed eight per cent per annum on the amount paid up thereon; and
- (f) state that the company may by by-law limit the amount to be distributed for each share on the dissolution of the company to the amount paid up on such share together with declared and unpaid dividends. 1949, c. 14, s. 1, *part*.

Member
loans.

143.—(1) The capital of corporations without share capital may be in the form of loans from members, called member loans, and such loans may be in such amounts, payable on demand or at such times and either without interest or with interest at a rate not exceeding six per cent per annum, as the by-laws may provide.

(2) A corporation may borrow money from its shareholders ^{Borrowing from members or shareholders.} or members in such amounts payable on demand or at such times and either without interest or with interest at a rate not exceeding six per cent per annum, as the by-laws may provide. 1949, c. 14, s. 1, *part.*

144. Where a member of a corporation without share ^{Termination of membership.} capital dies or does not transact any business with the corporation for a period of two years, the directors may terminate the membership, and upon such termination the corporation shall pay any money owing to the member. 1949, c. 14, s. 1, *part.*

145.—(1) No share of a company shall be transferred ^{Transfer of shares.} unless authorized by the board of directors.

(2) No membership in a corporation without share capital ^{Memberships.} shall be transferred unless authorized by the board of directors. 1949, c. 14, s. 1, *part.*

146.—(1) No individual member or shareholder of a ^{Voting.} corporation shall vote by proxy.

(2) No individual member or shareholder of a corporation ^{Idem.} shall have more than one vote.

(3) A corporate member or shareholder may appoint, under ^{Voting by corporate members or shareholders.} its corporate seal, one of its officers or directors to attend and vote on its behalf at meetings of members or shareholders and such officer or director shall have only one vote. 1949, c. 14, s. 1, *part.*

147. No person shall hold office as a director of a cor- ^{Qualification of a director.} poration unless he is a member or shareholder thereof or a director or officer of a corporate member or shareholder thereof. 1949, c. 14, s. 1, *part.*

148. A corporation may by by-law provide that, before ^{Reserve fund and dividends.} any distribution of surplus arising from the business of the corporation in each fiscal year, the corporation may,

(a) set aside reserve funds;

(b) provide for the payment of dividends on the share capital at a rate not to exceed eight per cent per annum on the amount paid up thereon. 1949, c. 14, s. 1, *part.*

149.—(1) Subject to section 148, the surplus arising from ^{Distribution of net surplus.} the business of the corporation in each fiscal year shall be

allocated, credited or paid to the members or shareholders in proportion to the business done by each member or shareholder with or through the corporation, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to the member or shareholder, whether as principal or as agent of the member or shareholder or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

Idem.

(2) The corporation may by by-law provide that part of the surplus may be allocated, credited or paid to non-members or non-shareholders at the same or at lesser rates than to members or shareholders.

Patronage return.

(3) The amount which is allocated, credited or paid to members, shareholders, non-members or non-shareholders in each fiscal year shall be known as the patronage return.

Limitation of patronage return.

(4) The corporation may by by-law provide that where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to any member, shareholder, non-member or non-shareholder in any year does not exceed \$50, or such lesser amount as may be specified in the by-law, no patronage return shall be allocated, credited or paid to such member, shareholder, non-member or non-shareholder. 1949, c. 14, s. 1, *part.*

Investment of patronage return.

150.—(1) A company may by by-law provide that in each fiscal year the whole, or such part as the directors may determine, of the patronage return of each shareholder shall be applied to the purchase for the shareholder of a stated number of unissued shares of the company or a stated number of issued shares of the company, if obtainable.

Notice.

(2) Where a company has enacted a by-law under subsection 1, and the whole or part of the patronage return of a shareholder is required to be invested in issued shares, the company shall mail a written notice to such shareholder stating the number of shares to be purchased by him.

Purchase of shares on behalf of shareholder required to purchase.

(3) Unless within 30 days from the date of mailing of the notice referred to in subsection 2, the shareholder required to purchase issued shares has presented for transfer to himself the number of shares which he is required to purchase, the company may on behalf of such shareholder,

(a) purchase the required number of shares from shareholders who are willing to sell shares;

- (b) pay out of the patronage return of such shareholder the purchase price;
- (c) transfer such shares to the shareholder; and
- (d) issue and forward to such shareholder a certificate representing such shares.

(4) A corporation may enact by-laws requiring its shareholders or members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year, upon such terms and at such rate of interest not exceeding six per cent per annum as the by-laws may provide. Compulsory borrowing.

(5) No shareholder shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof, or issued shares when no such shares are available for purchase. Idem.

(6) When the corporation is insolvent, no member or shareholder shall be required under this section to loan his patronage return, and no shareholder shall be required to purchase shares of the corporation. Idem.

(7) This section shall not prevent a member or shareholder from receiving so much of his patronage return as has not been appropriated to loans to the corporation or to the purchase of shares of the corporation in accordance with such by-laws. 1949, c. 14, s. 1, *part*. Idem.

151.—(1) Subject to subsections 2 and 3, a company, Purchase of shares by company.

- (a) with the consent of a shareholder, may purchase for redemption all or part of the shares held by such shareholder upon payment of such an amount, not exceeding the par value of the shares, as may be agreed upon; and
- (b) whenever a corporate shareholder is about to be dissolved, or a shareholder has failed for a period of two years to transact any business with the company, may purchase for redemption the shares of such shareholder, or require the transfer of such shares to another person, at the book value or par value, whichever is less.

(2) No company,

- (a) shall use for the purchase of shares for redemption in any fiscal year, an amount in excess of 50 per cent of the accumulated reserve funds; Prohibition re purchase for redemption.

- (b) shall purchase for redemption in any fiscal year more than 10 per cent of the shares outstanding at the beginning of the year;
- (c) shall purchase shares for redemption when the company is insolvent or so as to render the company insolvent or so as to reduce the number of shareholders to less than 10.

Re-issue prohibited.

(3) A share purchased for redemption by a company shall not be re-issued.

Where certificates of redeemed shares not surrendered.

(4) Where shares are subject to purchase for redemption, and the company gives to the shareholder written notice of purchase in which the shareholder is requested to surrender the share certificates, if any, for cancellation, and the shareholder fails to comply within the time specified, not being less than 30 days after the giving of such notice, the company may pay the purchase price into a chartered bank to the credit of the shareholder and cancel the shares upon its books. 1949, c. 14, s. 1, *part*.

Distribution of assets.

152.—(1) On any distribution of the assets of a corporation without share capital, member loans and patronage returns which are loaned to the corporation shall rank after the ordinary debts.

Distribution of assets upon dissolution.

(2) A corporation may enact by-laws providing that upon the dissolution of the corporation and after the payment of all debts and liabilities, including any declared and unpaid dividends, and the amount paid up on outstanding shares, if any, the remaining assets of the corporation or part thereof may be distributed or disposed of as follows:

- (a) equally among the members or shareholders irrespective of the number of shares held by a shareholder;
- (b) among the members or shareholders at the time of dissolution on the basis of patronage returns accrued to such members or shareholders during the five fiscal years immediately preceding the dissolution or since the date of incorporation; or
- (c) to charitable organizations or to organizations whose objects are beneficial to a community. 1949, c. 14, s. 1, *part*.

By-laws.

153.—(1) A corporation may enact by-laws providing for,

- (a) the division of its members or shareholders into groups, either territorially or on the basis of common interest;

- (b) the election of directors for each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (d) where all of the members or shareholders are corporations, the election of delegates and alternative delegates to represent such corporations on the basis of the number of members or shareholders in each corporation or the volume of business done with each corporation, or both;
- (e) the number and method of electing delegates;
- (f) the holding of meetings of delegates;
- (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members or shareholders;
- (h) the holding of meetings of members, shareholders or delegates territorially or on the basis of common interest;
- (i) the payment of expenses of delegates attending meetings.

(2) A delegate shall have only one vote and shall not vote ^{Voting.} by proxy.

(3) No person shall be elected a delegate who is not either ^{Qualifica-} a member or shareholder of the corporation or a director, ^{tion of} officer, member or shareholder of a corporate member or ^{delegate.} shareholder of the corporation.

(4) No such by-law shall prohibit members or shareholders ^{Proviso.} from attending meetings of delegates. 1949, c. 14, s. 1, *part.*

154.—(1) The by-laws of a corporation passed pursuant to ^{By-laws} this Part shall not take effect until confirmed by a vote of ^{to be} confirmed. ^{confirmed.} two-thirds of the members or shareholders present or represented at a meeting duly called for considering the by-law.

By-laws a
contract.

(2) The by-laws of the corporation shall bind the corporation and its members or shareholders to the same extent as if the by-laws had respectively been signed and sealed by each member or shareholder and contained covenants on behalf of each member or shareholder, his heirs, executors and administrators to conform thereto subject to this Part. 1949, c. 14, s. 1, *part*.

Duties.

155.—(1) Every corporation shall,

filing
by-laws;

(a) file in the office of the Provincial Secretary within 30 days after confirmation by the members or shareholders, copies of all its by-laws certified under its corporate seal;

delivering
copies of
by-laws;

(b) deliver a copy of the by-laws to a member or shareholder when requested in writing so to do;

transmit
statements
to Provincial
Secretary;

(c) transmit forthwith after each annual meeting to the office of the Provincial Secretary a copy of the balance sheet, statement of income and expenditure and report of the auditor presented thereat; and

delivering
statements
to members.

(d) deliver to every member or shareholder on demand in writing a copy of the balance sheet, statement of income and expenditure and report of the auditor.

Penalty.

(2) If a corporation fails to comply with subsection 1 it shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and every director and officer of the corporation who authorizes or permits such failure shall be guilty of an offence and on summary conviction shall be liable to a like penalty. 1949, c. 14, s. 1, *part*.

Educational
and ad-
visory work.

156. A corporation shall have power to carry on, encourage and assist educational and advisory work relating to co-operatives and the co-operative ideal. 1949, c. 14, s. 1, *part*.

Powers of
Lieutenant-
Governor
in Council.

157. The Lieutenant-Governor in Council may,

(a) relieve any corporation incorporated prior to the 1st day of June, 1949, from compliance with any of the provisions of this Part; and

(b) declare that a corporation shall no longer be subject to this Part, and change such corporation's name, if it appears to the Lieutenant-Governor in Council that 50 per cent or more in value of the business

of the corporation during its last fiscal year was transacted with persons or corporations who were neither members nor shareholders of the corporation. 1949, c. 14, s. 1, *part*.

PART XIII

COMPANIES OPERATING MUNICIPAL FRANCHISES AND PUBLIC UTILITIES

Incorporation and Powers

158. This Part shall apply to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility and which may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. R.S.O. 1937, c. 251, s. 159.

159. With the application for incorporation the applicants shall produce to the Provincial Secretary,

Application
of Part.

Material to
be produced
on
application.

- (a) evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten, and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) a detailed description of the plant, works and intended operations of the company, and an estimate of their cost;
- (c) a by-law of every municipality in which the operations of the company are to be carried on, authorizing the execution thereof in the manner set out in such detailed description, where the consent of the council of the municipality is required by law to authorize the company to carry on its operations therein;
- (d) if the undertaking is to be carried on, or in so far as it is to be carried on, in territory without municipal organization, a report from the Minister of Lands and Forests approving of the undertaking;

- (e) if it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof;
- (f) such further information as the Provincial Secretary may require. R.S.O. 1937, c. 251, s. 160.

Referring application to engineers, etc., for report.

160. The Provincial Secretary may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good-will, contract or other property or assets to be acquired and any other matter which may appear to be in the public interest regarding the undertaking. R.S.O. 1937, c. 251, s. 161.

Letters patent to be issued on Order in Council.

161. All letters patent and supplementary letters patent of companies to which this Part applies and of all companies incorporated before the 1st day of July, 1907, for any of the purposes mentioned in section 158, shall be issued on the authority of the Lieutenant-Governor in Council, and such letters patent or supplementary letters patent may be issued in terms and on conditions different from those applied for. R.S.O. 1937, c. 251, s. 162.

Notice of application.

162. Notice of the application shall be published in such manner and shall be given to such persons as the Provincial Secretary may determine. R.S.O. 1937, c. 251, s. 163.

Limitations in charter.

163. The letters patent or supplementary letters patent, may limit the term of the existence of the company, the rate of dividend payable on the shares of the capital stock, the amount which the company may borrow on debentures, debenture stock, mortgages or other securities and the rate of interest thereon. R.S.O. 1937, c. 251, s. 164.

Proofs, etc., to be produced on application for supplementary letters patent.

164. Upon an application for supplementary letters patent extending the powers increasing the capital or otherwise varying any term of the letters patent the company shall produce such evidence and statements as are referred to in section 159, and the Provincial Secretary may refer the same in the manner and for the purposes set out in section 160. R.S.O. 1937, c. 251, s. 165.

Supplementary letters patent, what may be contained in.

165. The supplementary letters patent may fix the conditions upon which any shares, debentures, debenture stock or other securities of the company, therein authorized to be

issued, may be allotted, sold or otherwise disposed of, and may be issued in terms and on conditions different from those applied for, and may vary any term or condition of the application. R.S.O. 1937, c. 251, s. 166.

166. No provision contained in this Part or in the letters patent or supplementary letters patent regarding the issue of debentures or other securities or the making of mortgages to secure the same shall in any way prejudice the right which any municipality may have to acquire or take possession of the plant and undertaking of the company. R.S.O. 1937, c. 251, s. 167. Rights of municipality preserved.

167.—(1) The company may pass by-laws regarding the control and management of its undertaking, its dealings with the public, the collection of tolls, charges, rates or levies for the public service given by the company, and for the use, protection and care of its property while being used, enjoyed or otherwise subject to public use; but no such by-laws shall have any force or effect or be acted upon until approved by the Lieutenant-Governor in Council and notice of the approval has been published four times in a public newspaper published at the place where the undertaking of the company is carried on, or as near thereto as may be, unless such publication is dispensed with by the Minister. R.S.O. 1937, c. 251, s. 168 (1); 1946, c. 10, s. 3. Company may pass by-laws for control, etc. of undertaking.

(2) Every person who contravenes any of the provisions of any such by-law shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 251, ss. 168 (2), 129. Penalty.

168. In addition to the other returns which are required by this or any other Act the company shall on or before the 8th day of February in each year make a report to the Provincial Secretary, verified as provided by subsection 3 of section 3 of *The Companies Information Act*, which shall specify, Additional returns. Rev. Stat., c. 60.

- (a) the cost of the work, plant and undertaking of the company;
- (b) the amount of its capital, and the amount paid thereon;
- (c) the amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately;

- (d) the amount and rate of dividends paid;
- (e) the amount expended for repairs; and
- (f) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the current year, together with an estimate of the cost thereof. R.S.O. 1937, c. 251, s. 169.

Inspection
of books.

169. The Provincial Secretary may appoint a person to inspect and examine the books of account of the company, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain the correctness of statements furnished by the company. R.S.O. 1937, c. 251, s. 170.

Existence of
company
may be
extended by
supplemen-
tary letters
patent.

170. The Lieutenant-Governor in Council by supplementary letters patent may extend the term of existence of any company incorporated for a limited period under this Act, or heretofore incorporated under any other general Act, for such further period, as by Order in Council, made before the expiry of such period, he may direct, and the provisions of this Act relating to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. R.S.O. 1937, c. 251, s. 171.

Expropriation

Powers of
expropria-
tion.

171.—(1) A company to which this section is made applicable by the letters patent or supplementary letters patent may take, without the consent of the owner thereof, such lands and easements as may be necessary for the purposes of *its undertaking*, in like manner as under *The Railways Act*, lands may be expropriated for the purpose of a railway; but any such right of expropriation may be limited or the application of any section of that Act may be excluded.

Rev. Stat.,
c. 331.

Application
of section.

(2) This section shall apply to a company incorporated before the 1st day of July, 1907, under any general or special Act. R.S.O. 1937, c. 251, s. 172.

PART XIV

WINDING UP OF COMPANIES

Generally

172. The liability of any person to contribute to the assets of a corporation under this Act, in the event of the corporation being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability. R.S.O. 1937, c. 251, s. 173.

Nature of liability of contributory.

173. If a contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the corporation in discharge of the liability of such deceased contributory and shall be deemed to be contributories accordingly. R.S.O. 1937, c. 251, s. 174.

Who liable in case of his death.

Voluntary Winding Up

174. A corporation may be wound up voluntarily,

Voluntary winding up.

- (a) where the period, if any, fixed for the duration of the corporation by the Act, letters patent or instrument of incorporation or by supplementary letters patent, has expired, or where the event, if any, has occurred, upon the occurrence of which it is provided by the Act or letters patent or instrument of incorporation or by supplementary letters patent that the corporation is to be dissolved, and the corporation in general meeting has passed a resolution requiring the corporation to be wound up;
- (b) where the corporation, in general meeting called for that purpose, has passed a resolution requiring the corporation to be wound up;
- (c) where the corporation, though it may be solvent as respects creditors, has passed a resolution in general meeting to the effect that it has been proved to its satisfaction that the corporation cannot, by reason of its liabilities, continue its business and that it is advisable to wind it up. R.S.O. 1937, c. 251, s. 175.

Commence-
ment of
winding-up.

175. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up. R.S.O. 1937, c. 251, s. 176.

Corporation
to cease
business.

176. Whenever a corporation is wound up voluntarily the corporation shall, from the date of the commencement of such winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of such winding up, shall be void; but its corporate state and all its corporate powers, notwithstanding that it is otherwise provided by its constating instrument or by-laws, shall continue until the affairs of the corporation are wound up. R.S.O. 1937, c. 251, s. 177.

Publication
of notice of
winding-up.

177. Notice of any resolution passed for winding up a corporation voluntarily shall be given by advertisement in *The Ontario Gazette*, and shall be filed in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 178.

No proceed-
ings against
corporation
after winding
up except
by leave.

178.—(1) After the commencement of the winding up no action or other proceeding shall be proceeded with or commenced against the corporation, and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation, except by leave of the court and subject to such terms as the court may impose.

Exception.
R.S.O. 1927,
c. 213.

(2) This section shall not apply to any proceeding taken under the *Winding-up Act* (Canada), or other Act respecting insolvency or bankruptcy for the time being in force. R.S.O. 1937, c. 251, s. 179.

Conse-
quences of
winding up,

application
of assets;

179. Upon a voluntary winding up,

(a) the property of the corporation shall be applied in satisfaction of all its liabilities *pari passu*, and, subject thereto, shall, unless it is otherwise provided by the by-laws of the corporation, be distributed rateably among the shareholders or members according to their rights and interests in the corporation;

priority of
claims of
certain
employees,
to what
extent;

(b) in distributing the assets of the corporation the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date of

- the commencement of the winding up or within one month before, not exceeding three months salary or wages, shall be paid in priority to the claims of the ordinary general creditors, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims;
- (c) the corporation in general meeting shall appoint such person or persons as it thinks fit to be a liquidator or liquidators for the purpose of winding up the affairs of the corporation and distributing its property, and shall fix the remuneration to be paid to him or them; appointment of liquidator and remuneration;
 - (d) if one person only is appointed all the provisions in *idem*; reference to several liquidators shall apply to him;
 - (e) upon the appointment of liquidators all the powers of the directors shall cease except in so far as the corporation in general meeting or the liquidators may sanction the continuance of such powers; powers of directors to cease;
 - (f) where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two; powers to be exercised by liquidators;
 - (g) the liquidators shall settle the list of contributories, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories; settlement of list of contributories;
 - (h) the liquidators may, at any time after the passing of the resolution for winding up and before they have ascertained the sufficiency of the assets of the corporation, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability to pay any sum which they may deem necessary to satisfy the debts and liabilities of the corporation, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the same; demand payment from contributories;

liquidators
to pay debts
of
corporation.

- (i) the liquidators shall pay the debts of the corporation and adjust the rights of the contributories, shareholders or members among themselves. R.S.O. 1937, c. 251, s. 180.

Payment of
costs and
expenses.

180. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidators, after taxation by one of the taxing officers of the Supreme Court at Toronto who is hereby empowered to tax the same, shall be payable out of the assets of the corporation in priority to all other claims. R.S.O. 1937, c. 251, s. 181.

Powers of
liquidators
to,

181.—(1) The liquidators shall have power,

bring or
defend
actions;

- (a) to bring or defend any action, suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the corporation;

carry on
business of
corporation;

- (b) to carry on the business of the corporation so far as may be necessary for the beneficial winding up of the corporation;

sell by
public
auction or
private
contract;

- (c) to sell *en bloc* or in parcels the real and personal property, effects and things in action of the company by public auction or private contract;

execute
deeds, etc.;

- (d) to do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;

draw and
endorse
promissory
notes, etc.;

- (e) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;

raise sums
necessary;

- (f) to raise upon the security of the assets of the corporation from time to time any requisite sum or sums of money;

take out
letters of
adminis-
tration, etc.;

- (g) to take out in their official name letters of administration to the estate of any deceased contributory and do in their official name any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be conveniently done in the name of the corporation;

do all other
things
necessary.

- (h) to do and execute all such other things as may be necessary for winding up the affairs of the corporation and distributing its assets.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note on behalf of the corporation shall have the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such corporation in the course of carrying on the business thereof.

Bills of exchange, etc., to be deemed drawn in due course.

(3) Where the liquidators take out letters of administration or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling them to take out such letters or recover such money, to be due to the official liquidators themselves. R.S.O. 1937, c. 251, s. 182.

When moneys deemed to be due to liquidators.

182. A corporation about to be wound up voluntarily, or in the course of being so wound up, may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors, hereinafter referred to as inspectors, the power of appointing liquidators and filling any vacancies in the office of liquidators, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised. R.S.O. 1937, c. 251, s. 183.

Inspectors.

183.—(1) The liquidators shall deposit at interest in some chartered bank at a branch or agency in Ontario all sums of money which they may have in their hands belonging to the corporation, whenever such sums amount to \$100.

Deposit in bank by liquidators.

(2) If inspectors have been appointed, the bank shall be one approved by them.

Approval of bank by inspectors.

(3) Such deposit shall not be made in the name of the liquidators generally, but a separate deposit account shall be kept of the money belonging to the corporation, in the name of the liquidators as such, and of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there is any.

Separate deposit account to be kept; withdrawal from account.

(4) At every meeting of the shareholders or members of the corporation the liquidators shall produce a pass-book, showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and dates of withdrawal, and of which production, mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass-book was not produced at the meeting.

Liquidators to produce bank pass-book.

Idem.

(5) The liquidators shall also produce the pass-book whenever so ordered by the court upon the application of the inspectors or of a shareholder or member of the corporation. R.S.O. 1937, c. 251, s. 184.

Meetings of corporation during winding up.

184.—(1) The liquidators may from time to time during the continuance of the winding up, summon general meetings of the corporation for the purpose of obtaining the sanction of the corporation by resolution, or for any other purpose they think fit.

Where winding up continues more than one year.

(2) In the event of the winding up continuing for more than one year the liquidators shall summon a general meeting of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year. R.S.O. 1937, c. 251, s. 185.

Vacancy in office of liquidator.

185. If any vacancy occurs in the office of liquidators appointed by the corporation by death, resignation or otherwise the corporation in general meeting may, subject to any arrangement it may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidators, if any, or by any contributory, and shall be deemed to have been duly held in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. R.S.O. 1937, c. 251, s. 186.

Distribution of assets.

Rev. Stat., c. 400.

186. Section 51 of *The Trustee Act* shall apply *mutatis mutandis* to liquidators. R.S.O. 1937, c. 251, s. 187.

Arrangements with creditors may be authorized.

187. The liquidators, with the sanction of a resolution of the corporation in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidators deem expedient, with any creditor or person claiming to be a creditor or having or alleging that he has any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1937, c. 251, s. 188.

Power to compromise with debtors and contributories.

188. The liquidators may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present

or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the assets of the corporation, or the winding up of the corporation, upon the receipt of such sums, payable at such times and generally upon such terms as may be agreed upon, and the liquidators may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1937, c. 251, s. 189.

189.—(1) Where a corporation is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidators of the first-mentioned corporation, with the sanction of a resolution in general meeting of the corporation by which they were appointed conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, shares or other like interest in such other corporation for the purpose of distribution among the shareholders or members of the corporation which is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash, shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Power to accept shares, etc., as a consideration for sale of property to another company.

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders or members of the corporation which is being wound up or in each class of shareholders or members if there be more than one class, provided that in the case of a company, the shareholders or classes of shareholders as the case may be, present in person or by proxy at a general meeting duly called for the purpose, by votes representing three-fourths of the shares or each class of shares represented at such meeting, or in the case of a corporation without share capital, by a majority representing three-fourths in number of the members or each class of members in the event of there being more than one class, approve such sale or arrangement, and such sale or arrangement in either case is approved by an order made by a judge of the Supreme Court in chambers on the application of the corporation.

Confirmation of sale or arrangement by liquidators.

(3) No resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with a resolution for winding up the corporation or for appointing liquidators. R.S.O. 1937, c. 251, s. 190.

Special resolution not invalid because prior to resolution to wind up

Proving
claims.

Rev. Stat.,
c. 26.

190. For the purpose of proving claims, sections 25, 26 and 27 of *The Assignments and Preferences Act* shall *mutatis mutandis* apply except that where the word "judge" is used there shall be substituted for it the words "master or local master" mentioned in section 191. R.S.O. 1937, c. 251, s. 191.

Application
to master or
local master
for opinion.

191.—(1) The master, where the head office of the corporation is in the county of York, or the local master where the head office is in any other county or in a district, or the master or any local master where a judge of the Supreme Court deems it more convenient that the application should be made to him, and so directs or allows upon the application of the liquidators or of the inspectors or of any creditor affected by section 187, after hearing such parties as he directs to be notified, or after such steps as he may prescribe have been taken, may give his opinion, advice or direction in any matter arising in the liquidation, and the same shall be followed and shall be binding upon all parties in the liquidation, subject to an appeal to a judge of the Supreme Court in chambers, if leave to appeal is given by such master or local master or by a judge of the Supreme Court, and the order of the judge shall be final and binding in the liquidation.

By creditors.

(2) A creditor affected by anything done or proposed to be done under the authority of section 189 shall have the like right to apply in respect thereof, and in other respects subsection 1 shall apply. R.S.O. 1937, c. 251, s. 192.

Winding up under Order of the Court

Winding up
by court.

192. A corporation may be wound up by order of the Supreme Court,

- (a) where it may be wound up voluntarily;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that they should be continued under the supervision of the court;
- (c) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the corporation that it should be wound up; or
- (d) where the letters patent have been declared forfeited or revoked or made void. R.S.O. 1937, c. 251, s. 193.

193.—(1) The winding-up order may be made by a judge ^{Who may apply.} or local-judge of the Supreme Court in chambers upon the petition of the corporation or of a shareholder or member or, when the corporation is being wound up voluntarily, of the liquidator or a contributory or of a creditor having a claim of \$200 or upwards.

(2) Except where the application is made by the corporation ^{Notice.} four days notice shall be given to the corporation before the making of the order. R.S.O. 1937, c. 251, s. 194.

194. Where a winding-up order is made by the court ^{Commencement of winding up.} without prior voluntary winding-up proceedings the winding up shall be deemed to commence at the time of service of notice of the presentation of the petition. R.S.O. 1937, c. 251, s. 195.

195. The court may make the order applied for, may dismiss the petition with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as may be deemed just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up, and may also delegate any powers of the court conferred by this Act to any officer of the court. ^{Powers of court.} R.S.O. 1937, c. 251, s. 196.

196.—(1) The court in making the winding-up order may ^{Appointment of liquidator.} appoint a liquidator or liquidators of the estate and effects of the corporation; but no such liquidator shall be appointed unless a previous notice is given to the creditors, contributories, shareholders or members in the manner and form prescribed by the court.

(2) If a liquidator has already been appointed in a voluntary liquidation such notice need not be given. ^{Notice when not necessary.} R.S.O. 1937, c. 251, s. 197.

197.—(1) If from any cause there is no liquidator acting either provisionally or otherwise the court may on the application of a shareholder or member of the corporation appoint a liquidator or liquidators. ^{Appointment by court.}

(2) The court may also, for due cause, remove a liquidator ^{Removal of liquidator.} and appoint another liquidator.

(3) When there is no liquidator the estate shall be under the control of the court until the appointment of a liquidator. ^{The case of no liquidator.} R.S.O. 1937, c. 251, s. 198.

Proceedings in winding up after order.

198. When a winding-up order has been made proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as hereinbefore provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case such list shall be subject to review by the court, and except that all proceedings in the winding up shall be subject to the order and direction of the court. R.S.O. 1937, c. 251, s. 199.

Meetings of members of company may be ordered.

199.—(1) The court may direct meetings of the shareholders or members of the corporation to be summoned, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Order for delivery by contributories and others of property, etc.

(2) The court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate, or effects which are in his hands and to which the corporation is *prima facie* entitled.

Inspection of books.

(3) The court may make such order for the inspection by the creditors and contributories of the corporation of its books and papers as the court deems just, and any books and papers in the possession of the corporation may be inspected in conformity with the order of the court; but not further or otherwise. R.S.O. 1937, c. 251, s. 200.

Examination of persons before court or liquidator.

200.—(1) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator any officer of the corporation, or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or supposed to be indebted to it, or any person whom the court may deem capable of giving information concerning its trade, dealings, estate or effects.

Power of court to assess damages against delinquent directors, etc.

(2) Where in the course of the winding up it appears that any person who has taken part in the formation or promotion of the corporation or any past or present director, manager, or official or other liquidator, or receiver, or any officer or employee of the corporation has misapplied, or retained in his own hands, or become liable or accountable for, money of the corporation, or been guilty of any misfeasance or breach

of trust in relation to it, the court may, on the application of a liquidator or of any creditor or contributory, examine into the conduct of the person charged and compel him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court deems just, or to contribute such sum to the assets of the corporation by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust as the court deems just. R.S.O. 1937, c. 251, s. 201.

201.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, refuses or neglects to take such proceeding, after being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court may prescribe.

Proceedings by shareholders at their own expense and for their own benefit only.

(2) Thereupon any benefit derived from such proceeding shall belong exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who may have joined him in causing the institution of the proceeding.

Benefits, when exclusively for shareholders.

(3) If before such order is granted the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the corporation. R.S.O. 1937, c. 251, s. 202.

Benefits, when for corporation.

202. The rights conferred by this Act shall be in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. R.S.O. 1937, c. 251, s. 203.

Rights conferred by Act to be in addition to other powers.

203. At any time after an order has been made for winding up, the court, upon the application of any contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings, either altogether or for a limited time, on such terms and subject to such conditions as the court deems fit. R.S.O. 1937, c. 251, s. 204.

Stay of proceedings.

Appeal.

204. An appeal shall lie from any order or decision of a local judge, or of any officer to whom a reference is made, to a judge of the Supreme Court sitting in court, as in the case of an appeal from the master's report in an action. R.S.O. 1937, c. 251, s. 205.

To the
Court of
Appeal.

205. An appeal shall lie to the Court of Appeal by leave of a judge of the Supreme Court from any order or decision of a judge of that court in any proceeding in a winding up under an order of the court when,

- (a) the question raised on the appeal involves future rights; or
- (b) the order or decision is likely to affect other cases of a similar nature in the winding up proceedings; or
- (c) the amount involved in the appeal exceeds \$500,

and the decision of the Court of Appeal shall be final. R.S.O. 1937, c. 251, s. 206.

Rules of
procedure.

206. The Lieutenant-Governor in Council may make rules for the due carrying out of the provisions of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada), shall apply. R.S.O. 1937, c. 251, s. 207.

R.S.C. 1927,
c. 213.

Account of
winding up
to be made
by liquidator
to a general
meeting.

207.—(1) Where the affairs of the corporation have been fully wound up, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

Return of
holding of
meeting to
be sent to
Provincial
Secretary,
dissolution.

(2) The liquidator shall make a return to the Provincial Secretary of such meeting having been held, and of the date on which the meeting was held, and the return shall be filed in the office of the Provincial Secretary, and on the expiration of three months from the date of the filing the corporation shall *ipso facto* be dissolved. R.S.O. 1937, c. 251, s. 208.

Order for
dissolution.

208.—(1) Notwithstanding section 207, the court at any time after the affairs of the corporation have been fully wound up may make an order dissolving the corporation, and the corporation shall be dissolved at and from the date of such order.

(2) The order shall be forthwith reported by the liquidator to the Provincial Secretary. Reports thereon.

(3) If the liquidator makes default in transmitting the return, or in reporting the order, if any, declaring the corporation dissolved, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for every day during which he is in default. Penalty on default in reporting by liquidator or in making return. R.S.O. 1937, c. 251, ss. 209, 129.

209. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the corporation shall be left for three years in the bank where they are deposited, or in another bank if so ordered by the court or judge, and, if then unclaimed, shall be paid over, with interest accrued thereon, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over by the Treasurer to the persons entitled thereto. Disposition of unclaimed dividends. R.S.O. 1937, c. 251, s. 210.

210.—(1) Every liquidator shall, within 30 days after the date of dissolution of the corporation, deposit in the bank appointed or named as hereinbefore provided any other money then in his hands not required for any other purpose authorized by this Act, with a sworn statement giving an account of such money, and stating that such money is all he has in his hands, and in case of default he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every day during which he is in default. Deposit by liquidator with sworn statement, penalty. R.S.O. 1937, c. 251, ss. 211 (1), 129.

(2) The money so deposited shall remain deposited as provided by section 209 for three years in the bank, and shall be then paid over, with interest, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over to the person entitled thereto. Money to remain on deposit for three years.

(3) Where a corporation has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the corporation and of the liquidators may be disposed of as the corporation by resolution directs in case of voluntary winding up or as the court directs in case of winding up under order. Disposal of books, etc., after winding up.

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the corporation or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. After five years, responsibility as to custody of books, etc., to cease. R.S.O. 1937, c. 251, s. 211 (2-4).

Provision
for discharge
of liquidator
and
distribution
by the court.

211.—(1) Whenever a corporation is being wound up under an order of the court, and the realization and distribution of its assets has proceeded so far that in the opinion of the court it becomes expedient that the liquidator should be discharged, and that the balance remaining in his hands of the money and assets of the corporation can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such money and assets, and the same shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
books and
documents.

(2) In such case the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator may be disposed of, and may order that they be deposited in court or otherwise dealt with as may be thought fit. R.S.O. 1937, c. 251, s. 212.

PART XV

GENERAL PROVISIONS

Varying
powers or
obligations
of existing
corporations
affected by
repeal of
former enact-
ments.

212.—(1) The Lieutenant-Governor in Council may by supplementary letters patent, upon the application of a corporation or of a shareholder, a creditor or a holder of bonds, debentures, debenture stock, or other securities or obligations thereof, or of any person with whom the corporation may have dealings, relieve the corporation from any duty, obligation or other disability which may have been imposed, or may limit any right, power or other advantage which may have been conferred upon the corporation by the repeal of the general Act under which it was incorporated and by the enactment of this Act or any predecessor of this Act.

Publication
of the
change.

(2) Notice shall thereupon be given by the Provincial Secretary of such supplementary letters patent in *The Ontario Gazette*, setting out the manner in which any such duty, obligation or other disability has been relieved or in which such right, power or other advantage has been limited. R.S.O. 1937, c. 251, s. 214.

Application
of Act.

213. This Act, except in so far as it is otherwise expressly declared shall apply,

- (a) to every company incorporated under any special or general Act of the Parliament of the late Province of Upper Canada;

- (b) to every company incorporated under any special or general Act of the Parliament of the late Province of Canada which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of the Legislature extends;
- (c) to every corporation incorporated under any of the Acts repealed by *The Ontario Companies Act* (1907), 1907, c. 34. or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable;
- (d) to every company incorporated under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act for which that was substituted was applicable; Rev. Stat., 1897, c. 189.
- (e) to every corporation incorporated under *The Ontario Companies Act* (1907), *The Ontario Companies Act* (1912), *The Ontario Companies Act* (1914), *The Companies Act* (1927), *The Companies Act* (1937), or this Act; 1907, c. 34.
1912, c. 31.
Rev. Stat., 1914, c. 178;
Rev. Stat., 1927, c. 218;
Rev. Stat., 1937, c. 251.
- (f) to every company incorporated under any general or special Act of the Legislature,

except a company incorporated for the construction and working of a railway, incline railway or street railway, the business of insurance except as provided by *The Insurance Act*, and the business of a corporation within the meaning of *The Loan and Trust Corporations Act*, except as provided by that Act. R.S.O. 1937, c. 251, s. 215. Rev. Stat., c. 183.
Rev. Stat., c. 214.

214. The Lieutenant-Governor in Council may relieve any company incorporated before the 1st day of July, 1907, from compliance with any of the provisions of this Act. R.S.O. 1937, c. 251, s. 216. Relief from compliance with Act.

215. Every corporation or company heretofore or hereafter created, General corporate powers of certain companies.

- (a) by or under any special or general Act of the Parliament of the late Province of Upper Canada;
- (b) by or under any special or general Act of the Parliament of the late Province of Canada, which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of this Legislature extends;

1907, c. 34.

(c) by or under any of the Acts repealed by *The Ontario Companies Act* (1907), or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable;

Rev. Stat.,
1897, c. 189.

(d) by or under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act for which that was substituted were applicable;

(e) by or under any general or special Act of this Legislature,

shall, unless otherwise expressly declared in the Act or instrument creating it, have, and be deemed from its creation to have had, the general capacity which the common law ordinarily attaches to corporations created by charter. R.S.O. 1937, c. 251, s. 217.

PART XVI

INSURANCE COMPANIES

Interpre-
tation.Rev. Stat.,
c. 183.

216. In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of *The Insurance Act*, as used herein, shall have the same meaning as in that Act. R.S.O. 1937, c. 251, s. 218.

Application
of Part.

217.—(1) This Part shall apply to all applications for incorporation of insurers intending to undertake contracts of insurance within Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 1st day of January, 1925, under the law of Ontario.

Application
of Act.

(2) Except where inconsistent with this Part, this Act shall apply to all such insurers.

Approval of
Superin-
tendent of
Insurance.

(3) No letters patent granting a charter under this Part shall be issued without the written approval of the Superintendent. R.S.O. 1937, c. 251, s. 219.

Incorporation of Joint Stock Insurance Companies

Incorporation.

218. A joint stock insurance company may be incorporated under this Act for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*. R.S.O. 1937, c. 251, s. 220.

Rev. Stat.,
c. 183.

219.—(1) Applicants for incorporation shall, immediately ^{Notice.} prior to the application, publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required, publish elsewhere notice of such intention.

(2) Applicants for incorporation shall also give at least ^{Notice to Superintendent.} one month's notice of their intention to apply for incorporation to the Superintendent. R.S.O. 1937, c. 251, s. 221 (1, 2).

220.—(1) In this section, "money received on account of ^{Interpretation.} shares" includes money received as premium on shares. R.S.O. 1937, c. 251, s. 222 (7).

(2) If the company undertakes life insurance the authorized ^{Capital stock of life insurance companies.} capital stock shall be not less than \$500,000.

(3) If the company undertakes any one or more classes ^{Other cases.} of insurance other than life, the authorized capital stock shall be not less than \$300,000.

(4) The capital stock shall be divided into shares of \$100 ^{Par value of shares in insurance companies.} each, provided that where not less than \$200,000 of the authorized capital is subscribed for and paid up in cash, and a surplus of not less than 50 per cent of such subscribed capital stock has been established, the capital stock may be divided into shares of any multiple of \$5, provided that the par value shall be not less than \$10.

(5) All money received on account of shares shall be paid ^{Application of moneys received on account of shares.} into a branch or agency in Ontario of some chartered bank of Canada or into a registered trust company in trust for the proposed corporation, and no money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and an election of directors had thereat.

(6) Every subscription to the capital stock made prior to ^{Return of subscriptions on failure to secure licence.} the granting of a licence pursuant to *The Insurance Act* shall contain the stipulation that all moneys received on account of shares shall be returned to the subscribers without any ^{Rev. Stat., c. 183.} deduction for promotion, organization or other expenses, in case the insurer fails to procure such a licence.

(7) Every subscription to the capital stock shall contain ^{Limit of percentage of subscriptions for charges.} the stipulation that no sum shall be used or paid before or after incorporation, for commission, promotion or organization expenses in excess of a percentage, not exceeding 15, of the amount of money received on account of shares. R.S.O. 1937, c. 251, s. 222 (1-6).

Interpre-
tation.

221.—(1) In this section, “surplus to policy-holders” means the surplus of assets over liabilities excluding capital stock shown in the annual statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent. R.S.O. 1937, c. 251, s. 223 (2).

Reduction
of capital
of life
insurance
companies.

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policy-holders in excess of \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent.

By-law and
letters
patent to
declare new
par value.

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares.

Application,
when to
be made.

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy, at a general meeting duly called for considering the by-law, and holding not less than two-thirds of the issued capital stock represented at such meeting.

Surplus
not to be
decreased by
dividends to
shareholders.

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital shall not be decreased by dividends to shareholders which may be declared thereafter. R.S.O. 1937, c. 251, s. 223 (1, 3-5).

Ss. 262, 264,
265, applic-
able to
company
undertaking
life
insurance.

222. A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 2, 3 and 4 of section 262 and sections 264 and 265 shall apply to such company. R.S.O. 1937, c. 251, s. 224.

Amalgama-
tion.

Rev. Stat.,
c. 183.

223. Subject to the approval of the agreement of amalgamation by Order in Council pursuant to *The Insurance Act*, section 11 of this Act shall apply to the amalgamation of two or more joint stock insurance companies. R.S.O. 1937, c. 251, s. 225.

Amalgama-
tion, etc.,
of mutual
corporation
and joint
stock
corporation.

224.—(1) Subject to *The Insurance Act*, a mutual corporation incorporated under the law of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirmation
of agreement
by members.

(2) Notwithstanding anything contained in its Act or instrument of incorporation or its constitution and by-laws,

the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, provided that no such agreement shall be binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant-Governor in Council pursuant to *The Insurance Act*.

Rev. Stat.,
c. 183.

(3) Notwithstanding anything contained in its Act or instrument of incorporation, or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws of or certificates issued by any fraternal society the contracts of which have been assumed by the mutual corporation, or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved shall be valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon their beneficiaries and legal personal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

(4) Upon the coming into force of any such agreement the reinsurer shall, in complying with the requirements of *The Insurance Act* in respect of the valuation of contracts so reinsured or transferred, be entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. R.S.O. 1937, c. 251, s. 226.

Incorporation of Mutual and Cash-Mutual Insurance Corporations

225.—(1) A mutual or cash-mutual corporation with guarantee capital stock may be incorporated under this Act for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under *The Insurance Act*.

(2) A mutual insurance corporation without guarantee capital stock may be incorporated under this Act for the

purpose of undertaking contracts of fire insurance upon agricultural property, weather insurance or livestock insurance, on the premium note plan. R.S.O. 1937, c. 251, s. 227.

*Mutual Fire Insurance Corporations without Guarantee
Capital Stock*

Meeting to
establish
corporation,
how called.

226. Ten freeholders in any municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation without guarantee capital stock to undertake contracts of fire insurance upon agricultural property, on the premium note plan. R.S.O. 1937, c. 251, s. 228.

Advertise-
ment calling
meeting.

227. The meeting shall be called by advertisement stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and once a week for three successive weeks in a newspaper published in the county or district in which the municipality is situate. R.S.O. 1937, c. 251, s. 229.

Subscription
book.

228. If 30 freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property within Ontario may sign their names and enter the sum for which they shall respectively bind themselves to effect insurance with the corporation. R.S.O. 1937, c. 251, s. 230.

When meet-
ing may be
called.

229. When 100 or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to not less than \$250,000, a meeting shall be called as herein-after provided. R.S.O. 1937, c. 251, s. 231.

How meeting
to be called.

230.—(1) When the subscription has been completed, any 10 of the subscribers may call the first meeting of the proposed corporation at such time and place within the municipality as they may determine by sending a printed notice by mail, addressed to every subscriber at his post office address at least 10 days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

Contents of
notice.

(2) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held. R.S.O. 1937, c. 251, s. 232.

231.—(1) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the words "fire" and "mutual" shall be adopted, a secretary *ad interim* appointed, a board of directors elected as hereinafter provided and some central and generally accessible place within the municipality or within a municipality adjacent thereto, named, at which the head office of the company shall be located.

Election of directors.

(2) The presence of at least 25 of the subscribers shall be necessary to constitute a valid meeting.

Quorum of meeting.

(3) As soon as convenient after the meeting, the secretary *ad interim* shall call a meeting of the board of directors, for the election from among themselves of a president and vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer, or a manager and the transaction of such other business as may be brought before the meeting. R.S.O. 1937, c. 251, s. 233.

First meeting of directors.

232.—(1) With the application for incorporation the applicants shall produce to the Provincial Secretary, certified as correct under the hands of the chairman and secretary,

Certain documents to be delivered.

(a) a copy of the minutes of the meeting including all resolutions respecting the objects of the proposed corporation, its name or style and location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed;

(d) such further information as the Provincial Secretary may require.

(2) There shall also, for verification, be produced to the Provincial Secretary, if requested, the originals of such documents. R.S.O. 1937, c. 251, s. 234.

Production of originals.

233. The Provincial Secretary shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with the provisions of this Part, and whether the subscriptions are *bona fide* and by persons possessing property to insure. R.S.O. 1937, c. 251, s. 235.

Provincial Secretary to ascertain correctness of proceedings.

234. The letters patent or supplementary letters patent shall limit the powers of a mutual fire insurance corporation

Powers.

Rev. Stat.,
c. 183.

without guarantee capital stock incorporated under the preceding sections to undertaking contracts of fire insurance upon agricultural and other non-hazardous property on the premium note plan in accordance with *The Insurance Act*. R.S.O. 1937, c. 251, s. 236.

*Incorporation of Mutual Live Stock Insurance Corporations
without Guarantee Capital Stock*

Meeting to
establish
corporation.

235.—(1) Ten owners of live stock in any municipality may call a meeting of the owners of live stock to consult whether it is expedient to establish a live stock insurance corporation upon the mutual plan.

Organiza-
tion.

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock except that the determination that it is expedient to establish the corporation shall be by 30 residents of the municipality being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless 50 owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation which in the aggregate shall amount to not less than \$50,000. R.S.O. 1937, c. 251, s. 237.

Powers of
corporation.

236. The letters or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation, incorporated under the preceding sections, to undertaking contracts of insurance against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection, on the premium note plan. R.S.O. 1937, c. 251, s. 238.

*Incorporation of Mutual Weather Insurance Corporations
without Guarantee Capital Stock*

Meeting to
establish
corporation.

237.—(1) Ten owners of agricultural property in any municipality may call a meeting of the owners of agricultural property to consult whether it is expedient to establish therein a weather insurance corporation upon the mutual plan.

Organiza-
tion.

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock except that the determination that it is expedient to establish the

corporation shall be by 30 residents of the municipality being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless 50 owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation which in the aggregate shall amount to not less than \$50,000. R.S.O. 1937, c. 251, s. 239.

238. The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation without guarantee capital stock incorporated under the preceding sections, to undertaking contracts of insurance on the premium note plan on any kind of agricultural property against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify. R.S.O. 1937, c. 251, s. 240.

*Cash-Mutual Fire Insurance Corporations: Conversion of
Cash-Mutual into Joint Stock Companies*

239. No cash-mutual insurance corporation shall be incorporated unless formed with guarantee capital stock as herein-after provided. R.S.O. 1937, c. 251, s. 241.

240. Sections 241 to 246 shall apply only to cash-mutual fire insurance corporations licensed pursuant to *The Insurance Act* prior to the 1st day of January, 1914. R.S.O. 1937, c. 251, s. 242.

241.—(1) A cash-mutual insurance corporation which now has a share or stock capital, with the assent of the Lieutenant-Governor in Council, may from time to time increase its share or stock capital to such an amount as he may deem expedient.

(2) Notice of any application to the Lieutenant-Governor in Council under this section shall be published in at least four consecutive issues of *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 243.

242. Every subscriber to such share capital shall, on allotment of one or more shares, become a shareholder of the corporation. R.S.O. 1937, c. 251, s. 244.

243. No insurance on the wholly cash plan shall make the insured a member of the corporation, or liable to contribute or pay any sum to the corporation, or to its funds, or to any other member thereof, beyond the cash premium agreed upon,

or give him any right to participate in the profits or surplus funds of the corporation. R.S.O. 1937, c. 251, s. 245.

Dividends.

244. The net annual profits and gains of the corporation not including therein any premium notes shall be applied in the first place to pay a dividend on the share capital not exceeding the rate of 10 per cent per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the corporation. R.S.O. 1937, c. 251, s. 246.

When cash-mutual company may become a joint stock company.

245.—(1) A corporation which has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company upon making application in the manner provided in this Act for the incorporation of joint stock insurance companies.

Approval of members and shareholders.

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and if the corporation has share capital, by two-thirds in value of the shareholders, at an annual general meeting or at a special general meeting and by three-fourths in number of the directors of the corporation in writing signed by them.

Notice of application.

(3) Notice of the intention to make the application, and of the consideration thereof at such meeting, shall be given by advertisement in *The Ontario Gazette* and in a newspaper published in the county or district in which the head office of the corporation is situate at least once a week for four successive weeks before the holding of the meeting.

Priority of assets and subscribing to stock.

(4) Every person who is a member of the corporation on the day of the meeting shall be entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. R.S.O. 1937, c. 251, s. 247.

Vesting of assets and preservation of liabilities.

246. Any corporation formed under section 245 shall be answerable for all liabilities of the corporation from which it has been formed, and may sue and be sued under its new corporate name, and the assets and property of the old corporation shall be vested in the new corporation from the date of its formation. R.S.O. 1937, c. 251, s. 248.

Mutual Insurance Corporations with Guarantee Capital Stock

Amount of guarantee capital.

247.—(1) A mutual or cash-mutual insurance corporation may be formed with an authorized guarantee capital stock of not less than \$300,000 nor more than \$500,000.

(2) The guarantee capital stock shall be divided into ^{Amount of} shares of \$100 each. R.S.O. 1937, c. 251, s. 249. ^{shares.}

248. The holders of the guarantee capital stock shall be ^{Dividends.} entitled to a semi-annual dividend of not more than four per cent per annum on their respective shares if there is sufficient surplus in excess of the guarantee capital stock outstanding, after providing for all liabilities and reserves, to pay such dividend. R.S.O. 1937, c. 251, s. 250; 1941, c. 13, s. 4, *amended*.

249. The guarantee capital shall be applied to the payment ^{Payment of} of losses only when the corporation has exhausted its assets ^{loss out of} exclusive of uncollected premiums and when thus impaired, ^{guarantee} the directors may make good the whole or any part of it by ^{capital.} assessments upon the contingent funds of the corporation at the date of such impairment. R.S.O. 1937, c. 251, s. 251.

250. Shareholders and members of such corporations shall ^{Right to} be subject to the provisions of this Act relative to their right ^{vote.} to vote as applied to shareholders and policyholders in mutual or cash-mutual corporations incorporated without guarantee capital stock. R.S.O. 1937, c. 251, s. 252.

251.—(1) The guarantee capital stock shall be retired ^{Retirement} when the profits accumulated equal two per cent of the ^{of guarantee} capital stock. ^{capital stock.} insurance in force.

(2) The guarantee capital stock may be reduced or retired ^{Idem.} by vote of the policyholders of the corporation with the assent of the Superintendent if the net assets of the corporation, above its reinsurance reserve and all other claims and obligations, exclusive of the guaranteed capital stock, for the two years last preceding, and including the date of its last annual statement, is not less than 25 per cent of the guaranteed capital stock. R.S.O. 1937, c. 251, s. 253.

252. Notice of the intention of the corporation to reduce ^{Notice.} or retire the guarantee capital stock under section 251 shall be published in at least four consecutive issues of *The Ontario Gazette*, not less than 30 days before the meeting when such action may be taken and elsewhere if so required by the Superintendent. R.S.O. 1937, c. 251, s. 254.

253. No mutual or cash-mutual insurance corporation with ^{Distribution} a guarantee capital stock which has ceased to do new business ^{of guarantee} shall divide among its stockholders any part of its assets or ^{capital stock.} guarantee capital except income from investments until it has performed or cancelled its policy obligations and upon

proof to the Superintendent that such policy obligations have been performed or cancelled. R.S.O. 1937, c. 251, s. 255.

*Mutual and Cash-Mutual Insurance Corporations:
Their Internal Management*

Application
of ss. 255 to
270.

254. Sections 255 to 270 shall apply only to mutual and cash-mutual fire insurance corporations and to mutual live stock and mutual weather insurance corporations. R.S.O. 1937, c. 251, s. 256.

Premium
note plan.

255.—(1) Any person insured under a policy issued by a corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation.

Member's
liability.

(2) No member shall be liable in respect of any claim or demand against the corporation beyond the amount unpaid upon his premium note.

Members
withdrawing.

Rev. Stat.,
c. 183.

(3) Any member may, with the consent of the directors, withdraw from the corporation upon such terms as the directors may lawfully prescribe subject to *The Insurance Act*. R.S.O. 1937, c. 251, s. 257.

Annual
meeting.

256.—(1) A meeting of the shareholders and members for the election of directors shall be held within the first two months of every year at such time and place as may be prescribed by the by-laws of the corporation.

Annual
statement.

(2) Before the election the annual statement for the year ending on the previous 31st day of December shall be presented and read. R.S.O. 1937, c. 251, s. 258.

Failure
to elect
directors.

257. If an election of directors is not made on the day on which it ought to have been made the company shall not for that cause be dissolved, but the election may be held on a subsequent day, at a meeting to be called by the directors or as otherwise provided by the by-laws of the company, and in such case the directors then in office shall continue to hold office until their successors are elected. R.S.O. 1937, c. 251, s. 259.

Notice of
annual or
special
meetings.

258.—(1) Notice of every annual, general or special general meeting of the corporation shall be sent by post to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before to the day of the meeting.

(2) The directors may convene a general meeting of the corporation at any time. Power of directors.

(3) The directors shall, at least seven days before the day of the annual meeting, send to every member by post the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors, and shall be in the form prescribed by the regulations passed pursuant to section 75 of *The Insurance Act*. R.S.O. 1937, c. 251, s. 260. Annual statement to be sent to members. Rev. Stat., c. 183.

259.—(1) A member of the corporation shall be entitled at all meetings of the corporation to the number of votes in proportion to the amount of insurance held by him according to the following scale: under \$1,500, one vote; \$1,500 to \$3,000, two votes; and \$3,000 or over, three votes; but no member shall be entitled to vote while in arrear for any assessment or cash payment due by him to the corporation. Voting powers of members.

(2) Where a policy on the premium note plan is made to two or more persons one only shall be entitled to vote, and the right of voting shall belong to the one first named on the register of policyholders if he is present, and if not present to the one who stands second, and so on. Where policy made to two or more persons.

(3) Where property is insured by a trustee board any member of such board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. R.S.O. 1937, c. 251, s. 261. Where property insured by trustee board.

260. No applicant for insurance shall be competent to vote or otherwise take part in the corporation's proceedings until his application has been accepted by the directors. R.S.O. 1937, c. 251, s. 262. Right of mere applicants.

261.—(1) No person shall be eligible to be or shall act as a director unless he is a member of the corporation and insured therein for the time he holds office, Qualification of directors.

(a) in the case of a live stock insurance corporation, to the amount of not less than \$200; and

(b) in the case of every other corporation, to the amount of not less than \$800.

(2) Where the corporation has a share capital not less than two-thirds of the directors shall also be holders of shares each to the amount of not less than \$1,000 upon which all calls have been paid. Where corporation has a share capital.

Representa-
tion of cor-
porations.

(3) The president or director of a member corporation which has the qualifications which would qualify an individual to be a director shall be eligible to be a director of the corporation.

Representa-
tion of part-
nerships.

(4) Where a partnership has the qualifications which would qualify an individual to be a director of the corporation one member of the partnership shall be eligible to be a director of the corporation. R.S.O. 1937, c. 251, s. 263.

Number of
directors.

262.—(1) The board shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 230.

Increase or
decrease in
number, how
made.

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Notice of
proposed
change.

(3) Where such a notice has been given to the secretary that fact shall be stated in the notice of the annual general meeting.

Copy of
resolution
and list of
directors to
be filed.

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. R.S.O. 1937, c. 251, s. 264.

Filing
by-laws for
remunera-
tion of
directors.

263. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. R.S.O. 1937, c. 251, s. 265.

Retirement
of directors
in rotation.

264. One-third of the directors shall retire annually in rotation and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. R.S.O. 1937, c. 251, s. 266.

265. At every annual general meeting thereafter one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring directors, who shall be eligible for re-election. R.S.O. 1937, c. 251, s. 267. Annual election to fill vacancies.

266. The manager of the corporation, although he has not the qualifications required by section 261, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 263. R.S.O. 1937, c. 251, s. 268. Manager may be a director and be paid salary.

267.—(1) No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, shall be eligible to be elected as a director or shall interfere in the election of directors. Certain persons not eligible as directors.

(2) Nothing herein shall apply to a person receiving applications for insurance, or taking to his own use the customary application, survey or policy fee, not exceeding \$1.50 in respect of any one policy, or prevent a director from so doing. R.S.O. 1937, c. 251, s. 269. Fees of director taking application.

268.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in their proper persons, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it. Election directors.

(2) The election shall be by ballot.

Ballot.

(3) If two or more members have an equal number of votes, so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors. Case of a tie at an election.

(4) The directors shall at their first meeting after any such election elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. R.S.O. 1937, c. 251, s. 270. Election of president and vice-president.

269. If a vacancy occurs among the directors during the term for which they have been elected by death, resignation, ceasing to have the prescribed qualification, insolvency, or by absence without previous leave of the directors, from three successive regular meetings which shall, *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and in the case of a board limited to a Interim vacancies in office.

number of directors, exceeding six, may be filled, until the next annual general meeting, by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. R.S.O. 1937, c. 251, s. 271.

Quorum of directors.

270.—(1) A majority of the directors shall constitute a quorum for the transaction of business, and in the case of an equality of votes at any meeting the question shall pass in the negative. R.S.O. 1937, c. 251, s. 272 (1); 1947, c. 15, s. 10.

Recording dissent.

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. R.S.O. 1937, c. 251, s. 272 (2).

Security of accountants.

271.—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit.

Minimum.

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$3,000 and shall consist of the bond of a licensed guarantee insurance or surety company. R.S.O. 1937, c. 251, s. 273.

General

Amalgamation.

272. Subject to the approval of the agreement of amalgamation by Order in Council pursuant to *The Insurance Act*, section 11 shall apply *mutatis mutandis* to the amalgamation of two or more mutual or cash-mutual insurance corporations. R.S.O. 1937, c. 251, s. 274.

Rev. Stat., c. 183.

Reserve fund of mutual and cash-mutual insurance corporation.

273.—(1) Subject to subsection 5, a mutual or cash-mutual insurance corporation may form a permanent reserve fund, to consist of such part of the net profits as may from time to time be set aside by the directors for that purpose or to be made up by annual assessments for that purpose not exceeding, for any single assessment, 10 per cent on the premium notes held by the corporation, until the total of the fund reaches two per cent of the corporation insurance in force.

(2) Such fund shall be held for the security of the insured ^{Investment and income.} and shall be subject to the provisions of this Act relating to the investment of the funds of insurance companies.

(3) The income from the fund shall be included in the ^{Income part of net profits.} general receipts of the company and shall constitute a part of the net profits, if any.

(4) The fund so accumulated shall be used for the payment ^{Use of reserve fund.} of losses and expenses when the cash funds of the company in excess of an amount equal to its liabilities, including guarantee capital if any, are exhausted, and when the fund is drawn upon the allocation of profits or assessments as aforesaid may be renewed or continued until the limit of accumulation as herein provided is reached.

(5) The fund may not be reduced by the payment of ^{Reduction of fund prohibited.} dividends to shareholders or members or by reduction of current premiums below the limit of two per cent of the insurance in force hereinbefore mentioned, but it may be increased beyond such limit if the company so desires.

(6) This section shall not apply to corporations undertaking ^{Application of section.} life insurance nor to purely mutual fire insurance corporations insuring risks other than mercantile or manufacturing, upon the premium note plan, nor to purely mutual live stock or weather insurance companies, carrying on business on the premium note plan. R.S.O. 1937, c. 251, s. 275.

Incorporation of Fraternal Societies

274. The Lieutenant-Governor may, by letters patent, ^{Incorporation.} grant a charter to any number of persons, not less than 75, of the age of 21 years, five of whom petition therefor, constituting such persons and any others who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act* ^{Rev. Stat., c. 183.} R.S.O. 1937, c. 251, s. 276.

275. Applicants for incorporation shall immediately prior ^{Notice.} to the application publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required, publish elsewhere notice of such intention. R.S.O. 1937, c. 251, s. 277.

276.—(1) The applicants for the incorporation of a fra- ^{Petition.} ternal society may petition the Lieutenant-Governor for the grant of a charter.

Particulars.

(2) The petition shall show,

- (a) the proposed name of the fraternal society; and
- (b) the place within Ontario where the head office of the fraternal society is to be situated;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be the first trustees or managing officers of the fraternal society; and
- (d) such other information as the Provincial Secretary may require.

Other documents.

(3) The petition shall be accompanied by the original membership book or list containing the signatures duly certified, of at least 75 persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society, and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. R.S.O. 1937, c. 251, s. 278.

Organization meeting.

277. Within 30 days after the issue of the letters patent, and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. R.S.O. 1937, c. 251, s. 279.

Incorporation of foreign fraternal society.

Rev. Stat., c. 183.

278.—(1) Where a fraternal society licensed under *The Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may petition the Lieutenant-Governor for the grant of a charter and from the time of the issue of the letters patent, the applicants shall become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*.

Application of s. 274.

(2) Section 274 shall apply to an incorporation under this section.

Approval of Superintendent.

(3) Before the issue of the letters patent evidence shall be produced to the Provincial Secretary that the approval of the Superintendent to the petition has been secured. R.S.O. 1937, c. 251, s. 280.

Incorporation of local branch.

279. An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings and under the authority of section 278. R.S.O. 1937, c. 251, s. 281.

280.—(1) Subject to *The Insurance Act*, any fraternal society may, in the manner herein provided, amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure the same with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance. Amalgamation or reinsurance by fraternal society. Rev. Stat., c. 183.

(2) Notwithstanding anything contained in its Act or instrument of incorporation or its constitution or laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary; provided that no such agreement shall be binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved or that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society regularly called. R.S.O. 1937, c. 251, s. 282. Agreement for amalgamation, etc.

281. Subsection 5 of section 11 shall apply *mutatis mutandis* to the amalgamation of two or more fraternal societies. Confirmation of amalgamation. R.S.O. 1937, c. 251, s. 283.

Incorporation of Mutual Benefit Societies

282.—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under *The Insurance Act*, and the provisions of this Part relating to fraternal societies shall apply *mutatis mutandis* to the incorporation of mutual benefit societies and to such societies when incorporated. Incorporation. Rev. Stat., c. 183.

(2) The proposed name and style of a mutual benefit society incorporated under this Act shall include the words "mutual benefit". R.S.O. 1937, c. 251, s. 284. Name.

Incorporation of Pension Fund Societies and Employees' Mutual Benefit Societies

283. Sections 284 to 297 shall apply to pension fund and employees' mutual benefit societies incorporated under this Part. R.S.O. 1937, c. 251, s. 285. Application.

284. In sections 285 to 297,

Interpretation.

- (a) "parent corporation" means the corporation any of whose officers establish a pension fund or employees' mutual benefit society under this Part;

- (b) "society" means a pension fund or employees' mutual benefit society incorporated under this Part;
- (c) "subsidiary corporation" means any corporation wherever incorporated at least 75 per cent of whose issued common shares are owned by a parent corporation as herein defined. R.S.O. 1937, c. 251, s. 286.

Charter by
letters
patent.

285. The Lieutenant-Governor may, by letters patent, grant a charter to the president, vice-president, general manager, assistant general manager, cashier, assistant cashier and inspector of any corporation legally transacting business in Ontario under any Act of Ontario, or to any two of such officials, with any other of the superior officers, constituting such persons, and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time, a pension fund or employees' mutual benefit society, and such society shall be a body corporate and politic. R.S.O. 1937, c. 251, s. 287.

Application
for charter.

286.—(1) The applicants for the incorporation of a society may petition the Lieutenant-Governor for the grant of a charter.

Contents of
petition.

(2) The petition shall show,

- (a) the proposed name of the society;
- (b) the name of the parent corporation;
- (c) the place within Ontario where the head office of the society is to be situated;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not less than five, of those who are to be the provisional directors of the society. R.S.O. 1937, c. 251, s. 288.

Notice

287. Notice of the proposed incorporation of such society shall be given by publication in *The Ontario Gazette* for four weeks and in such notice shall be given,

- (a) the exact name of the society;
- (b) the head office of the society; and
- (c) the name of the secretary thereof. R.S.O. 1937, c. 251, s. 289.

288. The provisional directors shall have power to call ^{First meeting.} the first meeting of the society, and at such meeting directors may be elected and by-laws may be passed under this Act, and upon the passing of such by-laws, a copy thereof shall be filed with the Provincial Secretary within two weeks after the passing thereof and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom shall also be filed with the Provincial Secretary within two weeks from the passing thereof. R.S.O. 1937, c. 251, s. 290.

289.—(1) The affairs of the society shall be administered ^{Directors.} by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications, and for such period as are determined by the by-laws, but at the first meeting of the society to be held under this Act five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner, with such remuneration, and under such provisions touching their powers and duties as are established by the by-laws.

(2) The board of directors may by by-law provide that the whole or any part of the fund of a society shall be entrusted ^{Management of fund by trust company.} to and managed by a trust company licensed under the laws of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. R.S.O. 1937, c. 251, s. 291.

290.—(1) In this section, “dependants” means the wives, ^{Interpretation.} husbands, and children under the age of 18 years, including adopted children, of such officers or employees. 1946, c. 10, s. 4 (2).

(2) After its incorporation under this Act every pension fund and employees’ mutual benefit society shall have the ^{Powers and objects of society.} power by means of voluntary contribution or otherwise as its by-laws provide, to form a fund, and may invest, hold and administer the same and from and out of the fund may,

- (a) provide for the support and payment of pensions to officers and employees of the parent corporation and its subsidiary corporations incapacitated by age or infirmity or who cease to be employed by the parent or a subsidiary corporation;
- (b) upon the death of such officers or employees, pay pensions, annuities or gratuities to their widows and children or other surviving relatives or personal representatives in such manner as by the by-laws may be specified;

- (c) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation incapacitated by illness, accident or disability; R.S.O. 1937, c. 251, s. 292, cls. (a-c).
- (d) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation in respect of illness, accident or disability which has incapacitated dependants of such officers or employees; 1946, c. 10, s. 4 (1).
- (e) upon the death of such officers or employees, pay a funeral benefit in such manner as by the by-laws may be specified. R.S.O. 1937, c. 251, s. 292, cl. (d).

Power to
pass by-laws.

291.—(1) Every such incorporated society shall have all corporate powers necessary for the purpose of this Act and may make by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of,

- (a) the society;
- (b) the individual members thereof;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees;
- (e) the parent corporation.

Additional
by-laws.

(2) Every such incorporated society may also make by-laws as aforesaid for,

- (a) the formation and maintenance of the fund;
- (b) the management and distribution thereof generally;
- (c) the enforcement of any penalty or forfeiture in the premises;
- (d) the government and ordering of all business and affairs of the society.

Sanction of
parent
corporation.

(3) No such by-law shall have any force or effect unless it has been sanctioned by the board of directors of the parent corporation. R.S.O. 1937, c. 251, s. 293.

292. All the powers, authority, rights, penalties and forfeitures whatever in the premises, whether of the society or of the individual members thereof, or of the officers and employees thereof, or of such widows and children or other surviving relatives or personal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws shall be defined and limited. R.S.O. 1937, c. 251, s. 294.

By-laws defining rights and remedies of beneficiaries, etc.

293. All the revenues of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects aforesaid of the fund and to no other purpose whatever. R.S.O. 1937, c. 251, s. 295.

Revenue.

294. The parent corporation may, and it is hereby authorized to contribute annually or otherwise to the funds of the society, by a vote of either its directors or its shareholders. R.S.O. 1937, c. 251, s. 296.

Contribution by parent corporation.

295. The interest of any member in the funds of the society shall not be transferable or assignable in any manner whatsoever by way of pledge, hypothecation, sale or security. R.S.O. 1937, c. 251, s. 297.

Prohibition against member assigning interest.

296.—(1) When it is shown to the satisfaction of the Provincial Secretary that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Provincial Secretary a requisition for audit bearing the signatures, addresses and occupations of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Provincial Secretary specific fraudulent or illegal acts, or the repudiation of obligations or insolvency, the Provincial Secretary may appoint one or more accountants or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Provincial Secretary.

Special audit.

(2) Where an audit is requested the persons requesting it shall, with their requisition, deposit with the Provincial Secretary security for the costs of the audit in a sum not exceeding \$300, and where the facts alleged in the requisition appear to the Provincial Secretary to have been partly or wholly disproved by the audit he may pay the costs thereof partly or wholly out of the deposit.

Security for costs.

(3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power, and

Duty of officers to facilitate special audit.

shall produce for inspection and examination by the person so appointed such books, securities and documents as he may require.

Expense of
special audit.

(4) Subject to subsection 2, the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Provincial Secretary, shall be paid by the society forthwith. R.S.O. 1937, c. 251, s. 298.

Return to
Provincial
Secretary.

297. Every society formed under this Act shall at all times when thereunto required by the Provincial Secretary make a full return of its assets and liabilities and of its receipts and expenditures for such period and with such details and other information as the Provincial Secretary requires. R.S.O. 1937, c. 251, s. 299.

Investments

Powers of
Ontario
insurers,

298.—(1) Subject to subsections 2 to 12, an insurer incorporated under the law of Ontario may invest its funds, or any portion thereof, in the purchase of,

government
securities;

(a) the debentures, bonds, stock or other securities of or guaranteed by the Government of Canada or of or guaranteed by the government of any province of Canada, or of or guaranteed by the Government of Great Britain or by the government of any dominion, colony or dependency thereof, or of or guaranteed by the government of any foreign country or state forming a portion of such foreign country, or of any municipal or school corporation in Canada or elsewhere where the insurer is carrying on business, or guaranteed by any municipal corporation in Canada, or secured by rates or taxes levied under the authority of the government of any province of Canada on property situated in such province and collectable by the municipalities in which such property is situated; or

bonds
secured by
mortgage;

(b) (i) the bonds of any company which are secured by a mortgage or hypothec to trustees or a trust corporation or otherwise, upon real estate or other assets, of such company, or

debentures;

(ii) the debentures or other evidences of indebtedness of any company which has paid regular dividends on its preferred or on its common stocks for a term of at least five years immediately preceding the date of investment in such debentures or other evidences of indebtedness, or

- (iii) the preferred stocks of any company which ^{preferred stock;} has paid regular dividends upon such stocks or upon its common stocks for not less than five years preceding the purchase of such preferred stocks, or the stocks of any company which are guaranteed by a company which has paid regular dividends upon its preferred or common stocks for not less than five years preceding the purchase of such guaranteed stocks, provided that the amount of stocks so guaranteed is not in excess of 50 per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing company, or
- (iv) the common stocks of any company or cor- ^{common stock;}poration upon which regular dividends of at least four per cent per annum or, in the case of stocks of no par value, of at least \$4 per share per annum, have been paid for the seven years next preceding the purchase of such stocks; provided further that if any such company or corporation has, pursuant to a voluntary reorganization of its capital account and without affecting the status or diminishing the value of its outstanding securities including the capital stock, substituted common shares of no par value for shares of par value, then dividends declared on such no par value stock shall be deemed to be dividends of at least \$4 per share per annum if the sum thereof is equivalent to at least four per cent of such common stock of par value and the proceeds of any additional issue of common stock made at the time of, or subsequent to, the aforesaid substitution of shares, and in such circumstances dividends of at least four per cent per annum on the common stock of par value immediately preceding the substitution shall be regarded as dividends on the no par value stock, and if any such company or corporation has in any year paid dividends on its common stock amounting to not less than \$500,000 the payment of such dividends shall be deemed to be for the purposes of this section equivalent to the payment of a dividend of four per cent for such year; or
- (c) ground rents, mortgages or hypothecs on real estate ^{mortgages;} in Canada, or elsewhere where the insurer is carrying

on its business, provided that the amount paid for any such mortgage or hypothec shall in no case exceed 60 per cent of the value of the real estate covered thereby; or

life
policies;

- (d) if the insurer undertakes contracts of life insurance, life or endowment policies or contracts issued by the insurer or by any other insurer licensed to undertake contracts of life insurance in Ontario; or

reversionary
interests.

- (e) reversionary interests involving life contingencies, provided that the assets of the reversion are permissible investments under this section and provided the purchase price is less than the value of the reversion based on the British Offices' Select Life Annuity Tables, 1893, with interest at three and one-half per cent per annum,

Loans,

or may lend its funds or any portion thereof on the security of,

on securities;

- (f) any of the bonds, debentures, stocks or other securities mentioned in this subsection; or R.S.O. 1937, c. 251, s. 300 (1), cls. (a-f).

real estate.

- (g) real estate or leaseholds for a term or terms of years or other estate or interest therein in Canada or elsewhere where the insurer is carrying on business, provided, however, that no such loan shall exceed 60 per cent of the value of the real estate or interest therein which forms the security for such loan, but this proviso shall not be deemed to prohibit an insurer from accepting as part payment for real estate sold by it, a mortgage or hypothec thereon for more than 60 per cent of the sale price of such real estate; but notwithstanding the foregoing, an insurer may lend its funds, or any portion thereof, on the security of real estate pursuant to *The National Housing Act, 1938* (Canada), or *The National Housing Act, 1944* (Canada) or any amendments thereto, or may make loans on the security of real estate or leaseholds or other estate or interest therein in excess of 60 per cent of the value aforesaid or in excess of the amount which may be loaned hereunder in accordance with *The National Housing Act, 1944* (Canada) or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant-Governor in Council or by a municipality under *The Housing Development Act, 1939*, c. 47, s. 3 (2); 1945, 2nd Sess., c. 2, s. 1; 1948, c. 13, s. 6 (1).

1938, c. 49;
1944-45,
c. 46
(Canada).

Rev. Stat.,
c. 174.

and the Lieutenant-Governor in Council may authorize the acceptance by an insurer of bonds, stocks or debentures not fulfilling the foregoing requirements of this subsection,

Other securities authorized by Lieutenant-Governor in Council.

- (h) in payment or part payment for securities sold by such insurer; or
- (i) obtained under a *bona fide* arrangement for the reorganization of a company whose securities were previously owned by such insurer; or
- (j) for the amalgamation with another company of the company whose securities were so owned,

but the bonds, stocks or debentures whose acceptance is so authorized shall be absolutely sold and disposed of within five years after the acquisition thereof, or within such further time not exceeding one year as the Lieutenant-Governor in Council shall, on report of the Minister, fix and determine unless it can be shown to the satisfaction of the Minister that the bonds, stocks or debentures whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted. R.S.O. 1937, c. 251, s. 300 (1), *part.*

(2) For the purpose of determining the eligibility as investments under subsection 1 of the preferred or common stocks of any company, which has been voluntarily reorganized without the impairment of the status or value of its securities, dividends paid on the preferred and common stocks of the company before such reorganization may be counted as dividends paid on such stocks respectively of the reorganized company. R.S.O. 1937, c. 251, s. 300 (2).

Stocks of reorganized companies.

(3) A joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not hereinbefore authorized by this section, including investments in real estate or leaseholds, subject to the following provisions:

Investments and loans.

- (a) Investments in real estate or leaseholds pursuant to this subsection shall be made only for the production of income, and may be made by the company in Ontario or elsewhere where the company is carrying on business, alone or jointly with any other company, and the company may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a company pursuant to this subsection in any one parcel of real estate or in any

one leasehold shall not exceed one-half of one per cent of the book value of the total assets of the company.

- (b) This subsection shall be deemed not to enlarge the authority conferred by subsection 1 to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds.
- (c) The total book value of the investments and loans made under this subsection and held by the company, excluding those that are or at any time since acquisition have been eligible apart from this subsection, shall not exceed three per cent of the book value of the total assets of the company. 1949, c. 14, s. 2 (1).

Investments
in corporate
name only.

(4) All investments and deposits of the funds of any such insurer shall be made in its corporate name, and no director or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other considerations for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that if he is a policyholder he shall be entitled to all the benefits accruing under the terms of his contract.

Terms,
manner and
amount of
loans.

(5) Any loan by this section authorized to be made may be on such terms and conditions, and in such manner and at such times, and for such sums, and in such sums of repayment, whether of principal or interest or principal and interest together, as the directors from time to time determine.

Prohibitions
and
restrictions.

(6) No insurer shall,

- (a) invest in or loan its funds upon the security of its own shares or the shares of any company transacting the business of insurance; or
- (b) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Ontario, invest money in any one security or make a total investment in any one company including the purchase of its stock or other securities, the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of more than five per cent of its funds; or

- (c) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Ontario, make any investment the effect of which will be that such insurer will hold more than five per cent of the total issue of stock or shares of any one company; or
- (d) loan any of its funds to any director or officer thereof, or to the wife or any child of such director or officer except, in the case of an insurer undertaking contracts of life insurance, on the security of its own policies; or
- (e) subscribe to or participate in or employ the funds of the insurer in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the insurer, enter into any transaction for such purchase or sale on account of such corporation, jointly with any other person, firm or corporation; provided that this clause shall not be deemed to prohibit the subscription in manner aforesaid for bonds or securities permitted by this section as a *bona fide* permanent investment on behalf of any such insurer.

(7) Except for the *bona fide* purpose of protecting investments previously made by it, and subject to the approval of the Lieutenant-Governor in Council, no insurer shall, nor shall its directors or officers or any of them on its behalf, under colour of an investment of the insurer's funds, or otherwise, directly or indirectly be employed, concerned or interested in the formation or promotion of any other company; provided that nothing in this subsection shall be deemed to prohibit insurers investing their funds in securities of a new company as provided in subsection 1. R.S.O. 1937, c. 251, s. 300 (3-6).

(8) Notwithstanding anything in this Act or in any other Act, an insurer incorporated under the law of Ontario for the purpose of undertaking life insurance may cause to be formed, or may join with one or more life insurance companies in forming, one or more institutional holding companies and one or more institutional housing corporations as defined in *The National Housing Act, 1944* (Canada), and may invest its funds in shares or debentures of such holding companies, and in shares of such housing corporations to an aggregate amount which, when added to the aggregate amount invested

Interest in forming other companies.

Power to form holding companies and housing corporations under *National Housing Act, 1944* (Canada) and to invest therein. 1944-45, c. 46 (Can.).

by such insurer under section 299 of this Act, does not exceed five per cent of its total assets in Canada allowed by the Superintendent. 1946, c. 10, s. 5.

Additional security to secure repayment of liabilities.

(9) Any insurer may take any additional securities of any nature to further secure repayment of any liability thereto, or to further secure the sufficiency of any of the securities in or upon which such insurer is by this section authorized to invest or lend any of its funds.

By-laws to prevail.

(10) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section shall enlarge the power of investment.

Disposal of unauthorized investments.

(11) The Superintendent may request any insurer to dispose of and realize any of its investments acquired after the 1st day of May, 1928, and not authorized by this section, and such insurer shall within 60 days after receiving such request absolutely dispose of and realize such investments, and if the amount realized therefrom falls below the amount paid by such insurer for such investments the directors of the insurer shall be jointly and severally liable for the payment to such insurer of the amount of the deficiency; provided that if any director present when any such investment is authorized, forthwith, or if any director then absent, within 24 hours after he becomes aware of such investment and is able to do so, enter on the minutes of the board of directors his protest against such investment, and, within eight days thereafter, gives notice of his protest by registered letter to the Superintendent, such director shall thereby and not otherwise exonerate himself from such liability. R.S.O. 1937, c. 251, s. 300 (7-9).

Directors' liability.

Interpretation.

(12) In subsection 1, "insurer" shall be deemed to mean only joint stock insurance companies, fraternal societies, mutual insurance corporations with guarantee capital stock and cash-mutual insurance corporations; all other insurers may invest their funds in any securities in which, under *The Trustee Act*, trustees may invest trust funds. R.S.O. 1937, c. 251, s. 300 (10); 1949, c. 14, s. 2 (2); 1950, c. 8, s. 2.

Rev. Stat., c. 400.

Investment of funds in housing projects.

299. An insurer incorporated under the law of Ontario for the purpose of undertaking life insurance may, in addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the provisions of *The National Housing Act, 1944* (Canada), or any amendments thereto, invest its funds to an aggregate amount not exceeding five per cent of its total assets in Canada allowed by the Superintendent in

1944-45, c. 46 (Can.).

any other classes or types of investments pursuant to the said Act, or any amendments thereto, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such land and buildings. 1949, c. 14, s. 3.

Forfeiture for Non-user or Discontinuance

300.—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding where such non-user is alleged, proof of user shall be upon the insurer, and the Supreme Court upon the petition of the Attorney-General, or of any person interested, may limit the time within which the insurer shall settle and close its accounts, and may for that purpose or for the purpose of liquidation generally appoint a receiver.

When charter to be forfeited for non-user or discontinuance.

(2) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. R.S.O. 1937, c. 251, s. 301.

Rights of creditors.

Auditors, By-laws and Published Statements

301.—(1) The report of the auditors of a joint stock insurance company or a cash-mutual insurance corporation required to be made by section 117 shall also state,

Report of auditors of joint stock insurance company.

- (a) that they have audited the books of the company and have verified the cash, bank balance and securities;
- (b) in the case of companies transacting other than life insurance, that they have checked the reserve of unearned premiums and that it is calculated as required by *The Insurance Act*;
- (c) that they have examined the provision for unpaid claims and that in their opinion it is adequate;
- (d) that the balance sheet does not show as assets unpaid balances owing by agents or other insurers whose accounts have not been verified within the next preceding 90 days;

Rev. Stat., c. 183.

Rev. Stat.,
c. 183.

(e) that the balance sheet does not include as assets items prohibited by *The Insurance Act* from being shown in the annual statements required to be filed thereunder;

(f) that, after due consideration, they have formed an independent opinion as to the position of the company and that, with their independent opinion so formed, and according to the best of their information and the explanations given them, they certify that in their opinion, the balance sheet sets forth fairly and truly the state of affairs of the company; and

(g) that all transactions of the company that have come within their notice have been within its powers.

Verification.

(2) The sending of a notice by the auditors to an agent or insurer with a statement of account made up to date, with a request for a direct reply confirming the balance owing, shall be deemed to be verification within the meaning of clause *d* of subsection 1. R.S.O. 1937, c. 251, s. 302.

Delivery of
by-laws to
Superin-
tendent.

302. Every insurer shall deliver to the Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. R.S.O. 1937, c. 251, s. 303.

Balance
sheets and
statements.

303. A copy of every balance sheet or other statement published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent concurrently with its issue to its shareholders or policyholders, or to the general public. R.S.O. 1937, c. 251, s. 304.

Offence.

304. Every person who fails to comply with the provisions of sections 301, 302 and 303 shall be deemed to be guilty of an offence under *The Insurance Act*. R.S.O. 1937, c. 251, s. 305.

Rev. Stat.,
c. 183.

Directors of
joint stock
insurance
company,
qualifi-
cations.

305. Subject to section 306, no person shall be eligible to become or shall be elected a director of a joint stock insurance company unless he is of the full age of 21 years and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$1,000 has been paid in and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. R.S.O. 1937, c. 251, s. 306; 1940, c. 5, s. 2.

306.—(1) A joint stock life insurance company may, by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

(2) A by-law passed pursuant to subsection 1 shall provide for the election of not less than nine nor more than 21 directors, of whom not less than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors.

(3) Participating policyholders shall be entitled to attend and vote in person and not by proxy at all general meetings of the company but as such shall not be entitled to vote for the election of shareholders' directors; provided that this section shall not confer rights or impose liabilities on such participating policyholders in any liquidation of the company.

(4) Every holder of a participating policy or participating policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder, and who has paid premiums on such policy or policies for at least three full years shall be eligible for election as a policyholders' director.

(5) Every such life insurance company shall have a fixed time in each year for its annual meeting and such time shall be printed in prominent type on each renewal receipt issued by the company, and in addition to all other notices required to be given by this Act, it shall give 15 days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. 1940, c. 5, s. 3, *part*.

Winding Up

307.—(1) The provisions of Part XIV relating to the winding up of companies shall apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Interpre-
tation.

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of the following sections, means only the insurance branch of the company, corporation or society. R.S.O. 1937, c. 251, s. 307.

Notice to
Superin-
tendent.

308.—(1) When an insurer incorporated under or subject to the law of Ontario proposes to go into voluntary liquidation, at least one month's notice shall be given to the Superintendent of the intention to voluntarily wind up the insurer.

Contents
of notice.

(2) The notice shall state the date at which contracts are to cease to be taken by the insurer also the name and address of the insurer's liquidator or the intention of the insurer to apply on a stated date for the appointment of a liquidator.

Consent of
Superin-
tendent to
voluntary
winding up.

(3) No fraternal society to which this Act applies shall go into voluntary liquidation or otherwise arrange for the winding up of its affairs without the written consent of the Superintendent. R.S.O. 1937, c. 251, s. 308.

Unearned
premium.

309. Where any insurer is wound up each person contracted with on the cash plan shall be entitled to a refund from the insurer of the unearned proportion of the cash premium calculated from the date at which the insurer, according to the notice, ceased to undertake contracts; but this shall not affect any other remedy which such person has against the insurer. R.S.O. 1937, c. 251, s. 309.

Liquidator
may reinsure
policy-
holders.

310.—(1) Upon a winding up under this Act, the liquidators may without the consent of the policyholders, arrange for the reinsurance of the contracts of its policyholders in some duly licensed insurer, and for the purpose of securing such reinsurance, the entire assets of the insurer in Ontario shall be available except the amount required to pay the claims of the preferred creditors, the amount of the costs of liquidation, and the amount required to pay claims accrued under the insurers' policy contracts, of which notice has been received by the insurer prior to the date such reinsurance is effected, all of which payments shall be a first charge upon the assets of the insurer, and creditors of the insurer other than the policyholders and such preferred creditors shall be entitled to receive a dividend on their claims only if such assets are more than sufficient to provide for the payments aforesaid and for the reinsurance of the contracts of the policyholders.

(2) If such assets of the insurer are insufficient to provide for the payment specified in subsection 1 and for the reinsurance of the contracts of the policyholders in full, the reinsurance may be effected for such a percentage of the full amount of the contracts as such assets will secure. Partial reinsurance if assets insufficient.

(3) No contract of reinsurance made in pursuance of this section shall become effective until approved by the Court and by the Superintendent. Approval by Court and Superintendent.

(4) In the event of the reinsurance provided for by this section being effected, the Court may in its discretion declare that any section of Part XIV shall not apply, and on such declaration being made the section so specified shall cease to apply to any of the parties concerned in the liquidation. Application of Part XIV.

(5) If the liquidator fails to secure the reinsurance of the policyholders in full or for a percentage thereof as hereinbefore provided, such assets shall, subject to the payment of the costs of liquidation and the preferred claims, be available to pay the claims of the policyholders calculated as at the date of winding up in the manner provided by *The Insurance Act*. Employment of assets where complete reinsurance not effected. Rev. Stat., c. 183.

(6) Nothing in this section shall prejudice or affect the priority of any mortgage lien or charge upon the property of the insurer. R.S.O. 1937, c. 251, s. 310. Secured creditors not affected.

311.—(1) Where, in the case of a fraternal society endowment or expectancy insurance is transacted and there exists an endowment fund separate and distinct from the life insurance fund then by resolution duly passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution, the society may determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributing to such fund according to the total contribution of such member. Resolution for distribution of endowment funds.

(2) After the resolution has been assented to by the Superintendent and filed with the Provincial Secretary, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled and such distribution shall discharge the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society. Distribution of funds, effect of.

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance Conversion into life insurance fund.

contracts, the general meeting, instead of determining that the endowment or expectancy fund shall be distributed, may determine that such fund shall be converted into or merged in a life insurance fund and after the resolution has been assented to and filed as provided in subsection 2 the endowment or expectancy fund shall become and be a life insurance fund. R.S.O. 1937, c. 251, s. 311.

Renewal or continuance of licence for winding-up purposes.

Rev. Stat., c. 183.

312. Notwithstanding anything in this Act or in *The Insurance Act*, where an insurer is being wound up voluntarily the Superintendent may renew or extend the licence of any insurer for the purpose of its winding up. R.S.O. 1937, c. 251, s. 312.

Winding up under order of the court.

Rev. Stat., c. 183.

313.—(1) In addition to the provisions of the preceding sections an insurer may be wound up by order of the Supreme Court whenever its licence has expired or been withdrawn under *The Insurance Act*, and has not been renewed after such expiry or withdrawal.

When winding up commences.

(2) Where an insurer is wound up under subsection 1 the winding up shall be deemed to commence at the beginning of the day from which the licence of the insurer expired or was cancelled. R.S.O. 1937, c. 251, s. 313.

Books, etc., of corporation as evidence.

314. The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators shall be *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. R.S.O. 1937, c. 251, s. 314.

FORM 1

(Section 4 (2))

PETITION

To His Honour.....

 Lieutenant-Governor of the Province of Ontario:

THE PETITION OF.....

 humbly sheweth as follows:

1. Your petitioners are desirous of obtaining Letters Patent under *The Companies Act*, constituting your petitioners and such others as may become shareholders in the company thereby created, a body corporate and politic under the name of
 or such other name as appears to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of 21 years.

5. The object for which incorporation is sought is to.....

6. The head office of the company will be at.....

7. The amount of the capital stock of the company is to be.....
 dollars.

8. The stock is to be divided into.....shares of
dollars each.

9. The said.....

 are to be the provisional directors of the company.

10. By subscribing therefor in a Memorandum of Agreement, duly executed in duplicate, with a view to the incorporation of the company, your petitioners have taken the amount of stock set opposite their respective names, as follows:

Petitioners	Amount of stock subscribed for
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and the persons who have become subscribers to the Memorandum of Agreement and such other persons as may become shareholders in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will ever pray, etc.

Date at.....this.....day of....., 19.....

Signatures of witnesses	Signatures of petitioners
	
	
	
	

R.S.O. 1937, c. 251, Form 1.

FORM 2

(Section 4 (3))

(To be executed in duplicate; one duplicate to be deposited in the office of the Provincial Secretary)

.....
(Name of Company)

MEMORANDUM OF AGREEMENT AND STOCK-BOOK

WE, the undersigned, hereby severally covenant and agree each with the others to become incorporated as a company under the provisions of *The Companies Act* under the name of or such other name as the Lieutenant-Governor may give to the company, with a capital of dollars, divided into shares of dollars each.

AND WE hereby severally subscribe for and agree to take the respective amounts of the capital stock of the said company set opposite our respective names as hereunder written, and to become shareholders in the company to the said amounts.

Witness our hands and seals.

Name of Subscriber	Seal	Amount of Subscription	Date and place of Subscription		Residence of Subscriber	Name of Witness
			Date	Place		

R.S.O. 1937, c. 251, Form 2.

FORM 3

(Section 6 (2))

PETITION FOR INCORPORATION WITHOUT SHARE CAPITAL

TO HIS HONOUR.....
 etc.
 Lieutenant-Governor of the Province of Ontario:

THE PETITION OF.....

 humbly sheweth as follows:

1. Your petitioners are desirous of obtaining Letters Patent under *The Companies Act*, constituting your petitioners and such others as may become members of the corporation thereby created, a body corporate and politic without share capital, under the name of.....

.....
 or such other name as appears to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of 21 years.

5. The object for which incorporation is sought is to.....

6. The said.....

 are to be the provisional directors of the corporation.

7. Your petitioners have signed a memorandum of agreement in duplicate, setting out the purposes and objects of incorporation and provisions for administering the affairs of the corporation, and have undertaken that the said corporation shall be carried on without the purposes of gain for its members, and that any profits or other accretions to the corporation shall be used in promoting its objects.

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and such others as have become subscribers to the Memorandum of Agreement and such persons as may thereafter become members of the corporation in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will every pray, etc.

Dated at.....this.....day of....., 19....

Signatures of witnesses

.....

Signatures of petitioners

.....

R.S.O. 1937, c. 251, Form 3.

FORM 4

(Section 6 (3))

MEMORANDUM OF AGREEMENT

Memorandum of Agreement of the
 made and entered into this day of, 19.....

1. We, the undersigned, hereby severally covenant and agree each with the others to become incorporated under *The Companies Act* as a corporation without share capital for the purposes and objects following:
(Setting out the objects of the corporation)

2. The subscribers shall be the first members, and it shall rest with the directors to determine the terms and conditions on which subsequent members shall from time to time be admitted.

3. The following shall be the first directors of the corporation:

.....

4. The first directors shall hold office until the first general meeting, and unless otherwise provided by the members in general meeting, the subsequent directors shall hold office for one year, or until their successors are appointed.

5. Any member may transfer his interest in the corporation by instrument in writing, signed both by the transferor and transferee and duly registered with the corporation.

6. The first general meeting shall be held at such time, not being more than two months after incorporation, and at such place as the directors may determine.

7. Subsequent general meetings shall be held at such time and place as may be prescribed by the corporation in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the fourth Wednesday in January in every year, at such place as may be determined by the directors.

8. The directors may, whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene a general meeting.

9. The requisition shall express the object of the meeting proposed to be called, and shall be left at the office of the corporation.

10. Upon the receipt of such requisition the directors shall forthwith convene a general meeting, and if they do not convene the same within twenty-one days of the receipt of the requisition, the requisitionists or any other five members may themselves convene a meeting.

11. At least ten days notice of any general meeting, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the corporation in general meeting, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members shall be dissolved, and in any other case, it shall stand adjourned to the same day in the following week, at the same hour and place, and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13.—(1) The chairman (if any) of the directors shall preside as chairman at every general meeting of the corporation.

(2) If there is no such chairman, or if at any meeting he is not present, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may, with the consent of the meeting, adjourn it from time to time and from place to place, but no business shall be transacted at any adjourned meeting other the business left unfinished at the meeting from which the adjournment took place.

15. At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of proceedings of the corporation shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. If a poll is demanded, the same shall be taken in such manner as the chairman directs, and the result shall be deemed to be the resolution of the corporation in general meeting.

17. With the consent in writing of all the members, a general meeting may be convened on shorter notice than ten days and in any manner which such members think fit.

18. The presence in person or by proxy of either at least thirty members or of one-fourth of the members shall be necessary to constitute a quorum at general meetings.

19. Until otherwise determined by special resolution, every member shall have one vote.

20. Votes may be given either personally or by proxy, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation under its common seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a member of the corporation.

21. A resolution signed by all the directors shall be as valid and effectual as if it had been passed at a general meeting of the directors duly called and constituted.

22. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting shall be determined by the corporation in general meeting.

23. The affairs of the corporation shall be managed by the directors, who may pay all expenses of the incorporation and may exercise all such powers of the corporation as are not by *The Companies Act* or by this memorandum required to be exercised by the corporation in general meeting, subject, nevertheless, to any regulations of this memorandum, to

the provisions of that Act, and to such regulations not inconsistent with such regulations or provisions as may be prescribed by the corporation in general meeting; but no regulation made by the corporation in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made, and the continuing directors may act notwithstanding any vacancy in their body.

24.—(1) The office of director shall be vacated,

(a) if he holds any other office or place of profit under the corporation;

(b) if he is concerned in or participates in the profits of any contract with the corporation.

(2) No director shall vacate his office by reason of his being a shareholder or member of any corporation which has entered into any contract with or done any work for the corporation of which he is a director, but he shall not vote in respect of such contract or work, and if he votes his vote shall not be counted.

25. A retiring director shall be eligible for re-election.

26. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled, the meeting shall stand adjourned till the same day in the next week, at the same hour and place and if at such adjourned meeting the places of the vacating directors are not filled, the vacating directors, or such of them as have not had their places filled shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled.

27. The corporation may, from time to time, in general meeting increase or reduce the number of directors, and may also determine in what rotation any such increased or reduced number is to go out of office.

28. Any casual vacancy occurring in the board of directors may be filled by the directors but any person so chosen shall retain his office so long as the vacating director would have retained the same if no vacancy had occurred.

29. The corporation in general meeting, by a resolution, of which notice has been given in the notice calling the meeting, may remove any director before the expiration of his period of office, and may, by resolution, appoint another person in his stead, and the person so appointed shall hold office during such time as the director in whose place he was appointed would have held the same if he had not been removed.

30.—(1) The directors may meet for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business.

(2) Questions arising at any meeting shall be decided by a majority of votes, and in case of an equality of votes, the chairman shall have a second or casting vote.

(3) A director may at any time summon a meeting of the directors.

31. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present, the directors present shall choose one of their number to be chairman of the meeting.

32. The directors, by resolution entered upon the minutes, may delegate any of their powers to committees consisting of such member or members of their body as they think fit, and a committee so formed shall, in the exercise of its powers so delegated, conform to any regulations that may be imposed on it by the directors.

33. A committee may elect a chairman, and if no such chairman is elected, or if he is not present, the members present shall choose one of their number to be chairman of the meeting.

34. A committee may meet and adjourn as it thinks proper, and questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

35. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person so acting, or that they, or any of them, were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a director; but it shall not be necessary to give notice of a meeting of the directors to a director who is not in Ontario.

In testimony whereof we have hereunto set our hands and affixed our seals.

R.S.O. 1937, c. 251, Form 4.

FORM 5

(Section 52 (4))

INSTRUMENT OF PROXY

.....
(Name of Company)

I,, of,
a shareholder of,
(Name of Company)
hereby appoint of
as my proxy to vote for me and on my behalf at the
..... meeting of the company, to be
held on the day of, 19....., and at any
adjournment thereof.

Dated this day of, 19.....

NOTE:

Where the appointer is a corporation, or an officer of it, the necessary changes must be made in the form.

Where the instrument is signed by a corporation, its common seal must be affixed.

R.S.O. 1937, c. 251, Form 5.

FORM 6

(Section 105 (2))

FORM OF AFFIDAVIT

Province of Ontario
County of

In the matter of
(Insert name of company)

I,, of the.....of.....,
in the.....of.....,
make oath and say:

1. That I am a shareholder (or creditor) of the above-named company.

*(Where the shareholder or creditor is a corporation, indicate
office and authority of deponent in paragraph 1)*

2. That I am making application to make a list of the shareholders
of the above-named company.

3. That I require the list of shareholders only for purposes connected
with the above-named company.

4. That the said list of shareholders and the information contained
therein will be used only for purposes connected with the above-named
company.

Sworn, etc.

A Commissioner, etc.

1946, c. 10, s. 6.
